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# Army releases findings in detainee-abuse investigations

May 5, 2005

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Today, in a continuing effort to keep the public informed, the Army released a portion of findings from a series of exhaustive investigations into detainee and interrogation operations. While every senior-officer allegation was formally investigated by the Army, today's release details findings into investigations of five senior officers having particular Congressional interest.

The release is the culmination of six months of investigative efforts, during which thousands of documents from 10 separate investigations, reviews and assessments were examined carefully. The investigations also included 82 separate sworn-statement interviews -- ranging from Ambassador L. Paul Bremer and Gen. John Abizaid down to captain and warrant officer.

The investigations amassed over 45 hours of recorded sworn testimony. This investigative team had broad latitude to plan and conduct investigations in pursuit of the facts and evidence. The investigators were in no way restricted or influence by Army or Department of Defense leadership in their pursuit of the facts, or in their findings and recommendations. Every person who was the subject of these investigations was given the opportunity to provide testimony.

The five senior officers are: Lt. Gen. Ricardo S. Sanchez, Maj. Gen. Walter Wojdakowski, Maj. Gen. Barbara G. Fast, Brig. Gen. Janis Karpinski, and Col. Marc Warren. They were identified in investigations and assessments conducted by Dr. James Schlesinger, Gen. Paul J. Kern and Maj. Gen. Antonio M. Taguba.

In accordance with Army policy, all allegations involving general officers are investigated by the Army Inspector General. In the case of Col. Warren, allegations were investigated by the Army's Judge Advocate General. All senior officers mentioned derogatorily, in any of the previous reports, were formally investigated. Each allegation considered by Army investigators was evaluated against an established standard in the Uniform Code of Military Justice (UCMJ) or in Army Regulation. The Army Inspector General is the Army's independent investigative authority and reports directly to the Secretary of the Army. The Judge Advocate General is the Army's top uniformed lawyer and reports directly the Chief of Staff of the Army.

Lt. Gen. Ricardo S. Sanchez, then commander Combined Joint Task Force 7 (CJTF7), was investigated by the Department of the Army Inspector General (DAIG) for the following allegations:

1. Dereliction in the performance of duties pertaining to detention and interrogation operations

Keith L. Ware
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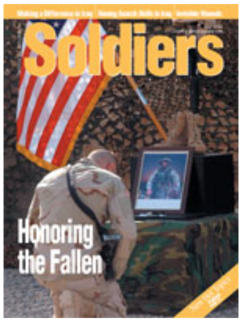

2. Improperly communicating interrogation policies

The DAIG found each of the allegations unsubstantiated. Lt. Gen. Sanchez is currently serving as the Commander of V Corps, headquartered in Heidelberg, Germany.

Maj. Gen. Walter Wojdakowski, then Deputy Commander Combined Joint Task Force 7 (CJTF7) was investigated by the DAIG for the following allegation:

1. Dereliction in the performance of duties pertaining to detention and interrogations operations.

The DAIG found the allegation unsubstantiated. Maj. Gen. Wojdakowski currently is serving as a Special Assistant to the Commanding General U.S. Army Europe headquartered in Heidelberg, Germany.

Maj. Gen. Barbara G. Fast, then C2 intelligence officer Combined Joint Task Force 7 (CJTF7), was investigated by the DAIG for the following allegation:

1. Dereliction in the performance of her duties

The DAIG found the allegation unsubstantiated. Maj. Gen. Fast currently is serving as the commander of the U.S. Army Intelligence Center and Fort Huachuca, Ariz.

Brig. Gen. Janis Karpinski, then Commander 800th Military Police Brigade, was investigated by the DAIG for the following allegations:

1. Dereliction of duty

2. Making a material misrepresentation to an investigating team

3. Failure to obey a lawful order

4. Shoplifting.

The DAIG found two of the allegations unsubstantiated, while the allegations of dereliction of duty and shoplifting were found to be substantiated.

Based upon the DAIG investigation, Army Vice Chief of Staff Gen. Dick A. Cody issued Brig. Gen. Karpinski a memorandum of reprimand and directed that it be filed in her Official Military Personnel File. The Commander of the U.S. Army Reserve Command, Lt. Gen. James R. Helmly, formally relieved Brig. Gen. Karpinski from command of the 800th Military Police Brigade on April 8.

Today, the President approved a recommendation to vacate the promotion of Brig. Gen. Karpinski from her rank of brigadier general. This action was in response to a recommendation by the U.S. Army Reserve Command commander, the Chief of Staff of the Army, and the Secretary of the Army to the Secretary of Defense and the President. This decision reduces her rank to colonel in the U.S. Army Reserve.

Though Brig. Gen. Karpinski's performance of duty was found to be seriously lacking, the investigation determined that no action or lack of action on her part contributed specifically to the abuse of detainees at Abu Ghraib.

Col. Marc Warren, then Staff Judge Advocate for Combined Joint Task Force 7 (CJTF7), was the subject of a preliminary screening inquiry (PSI) conducted by the Department of the Army's Office of the Judge Advocate General for allegations of:

1. Professional impropriety under lawyers ethics rules

2. Dereliction in the performance of his duties.

The Office of the Judge Advocate General found the allegations to be unsubstantiated. Col. Warren currently is serving at Headquarters, Department of the Army, Washington, D.C.

To date, the Army and the Department of Defense have conducted 10 separate comprehensive investigations examining all aspects of detention operations. The major inquiries are based on more than 1,700 interviews and more than 16,000 pages of documents. Additionally, over 360 criminal investigations examined allegations of detainee mistreatment. Thus far, allegations against more than 130 military members have been addressed in courts-martial, non-judicial punishments, and other adverse administrative actions.

Regarding officer accountability, roughly 25 percent of the adverse punishments to date have been applied against officers, who make up about 16 percent of the total Army force. While there are still officer cases that remain open, to date, the Army has taken the following actions against officers in the ranks of brigadier general to warrant officer:

Brigadier General - Promotion vacated, relief from command, one letter of reprimand

Colonel - One non-judicial punishment

Lieutenant Colonel (four officers) - Two letters of reprimand, two non-judicial punishments

Major (three officers) - Three letters of reprimand, one non-judicial punishment

Captain (10 officers) – Three courts-martial, one other than honorable discharge, five letters of reprimand, one non-judicial punishment

1st Lieutenant (four officers) – Two courts-martial, one letter of reprimand, one non-judicial punishment

2nd Lieutenant (two officers) - One other than honorable discharge, one letter of reprimand

Chief Warrant Officer 3 - One court-martial

Chief Warrant Officer 2 - One court-martial.

Investigations into detainee abuse allegations are rank immaterial and will continue until all cases are completed. Investigators are persons of integrity, are under no undue command influence, and are charged to proceed wherever the truth leads in assessing accountability. Detainee abuse is not tolerated. The Army is committed to ensuring all Soldiers live up to the Army Values and the Law of War regardless of the environment or circumstances.

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Addendum #1

Background on the Investigation and Disposition of

General Officer Misconduct in the Army

- Investigation. In accordance with Army Regulation 20-1, within the Army, only the Department of the Army Inspector General may investigate allegations of misconduct against general officers.

- Disposition. In accordance with Army Regulation 20-1 and longstanding Army practice, the Vice Chief of Staff of the Army (VCSA) directs reviews and acts upon the results of these DAIG investigations. If an officer's substantiated misconduct warrants administrative disciplinary action, the VCSA typically gives the officer a memorandum of reprimand or memorandum of concern (counseling). In more serious cases, when administrative measures may be insufficient, the VCSA may refer the case to an appropriate General Court-Martial Convening Authority (senior commander) for disposition as that commander deems appropriate.

- Other Adverse Actions. Other adverse personnel actions--such as suspension/relief from command or an adverse officer evaluation report--are handled by the general officer's chain of command or supervisory chain. The Commander, U.S. Army Reserve Command, for example, has the inherent command authority under provisions of Army Regulation 600-20 to suspend or relieve commanders assigned under him if he deems it appropriate.

- Vacation of General Officer Promotion. Under the provisions of Title 10 of the United States Code, Section 14313, the President is authorized to vacate a reserve brigadier general's appointment to that grade if the officer has served in that grade less than 18 months.

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MEMORANDUM THRU

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FOR VCSA Approved (b)(6)-2 & (b)(7)(C)-2 28 Mar 05 Disapproved______ See Me______ Date________

SUBJECT: (U) Alleged Impropriety by LTG Ricardo Sanchez, Commanding General (CG), Combined Joint Task Force (CJTF) - 7, Baghdad, Iraq **(DIG 05-80001)**

1. (U) On 12 October 2004, The Inspector General of the Army (TIG) directed an inquiry into the allegations that LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations in Iraq during Operation IRAQI FREEDOM (OIF), and that he improperly communicated interrogation policies. (EXHIBIT A)

2. (U) Background: LTG Sanchez was assigned as the CG, 1st Armored Division (AD), Wiesbaden, Germany, in June 2001, and deployed to Iraq for OIF in February 2003. On 14 June 2003, he assumed command of V Corps in Baghdad, Iraq. On 15 June 2003, V Corps assumed the CJTF-7 mission, and LTG Sanchez became the CG, CJTF-7. He redeployed to Heidelberg, Germany, in July 2004, and resumed his duties as the CG, V Corps.

3. (U) Reports Reviewed:

a. (U) On 9 September 2003, MG Geoffrey Miller, Commander (CDR), Joint Task Force (JTF) Guantanamo Bay (GTMO), completed a Department of Defense (DOD) assessment of counterterrorism interrogation and detention operations in Iraq. The assessment discussed the theater's ability to rapidly exploit internees for intelligence, and focused on three areas: intelligence integration, synchronization, and fusion; interrogation operations; and, detention operations. This assessment was commonly referred to as the Miller Report.

b. (U) On 6 November 2003, MG Donald Ryder, Provost Marshal (PM) General, completed an assessment of detention and corrections operations in Iraq. The report made assessments and specific recommendations concerning detention and correction operations in Iraq to assist in resolving the management and administration of detainee operations. This assessment was commonly referred to as the Ryder Report.

c. (U) On 26 February 2004, MG Antonio Taguba, Deputy CDR, Coalition Forces Land Component Command (CFLCC), completed an Army Regulation (AR) 15-6 investigation that inquired into the facts and circumstances surrounding allegations of detainee abuse at the Abu Ghraib Prison (AGP), Baghdad, Iraq. This report of investigation (ROI) was commonly referred to as the Taguba Report.

d. (U) Based on recommendations in the Taguba Report, a further investigation was initiated on 15 April 2004, under the provisions of Procedure 15, AR 381-10, US Army Intelligence Activities, dated 1 July 1984. MG George Fay, Deputy G-2, US Army, investigated the relevant facts and circumstances surrounding the alleged misconduct on the part of personnel assigned and/or attached to the 205th Military Intelligence (MI) Brigade (BDE) at AGP (commonly referred to as the Fay Report). LTG Anthony Jones, Deputy CDR, Training and Doctrine Command (TRADOC), focused on whether organizations or personnel higher than the 205th MI BDE were involved, directly or indirectly, in activities regarding the alleged detainee abuse at AGP (commonly referred to as the Jones Report). GEN Paul Kern, CDR, US Army Materiel Command, was the appointing authority.

e. (U) On 25 May 2004, the IG, US Navy, was directed to lead a DOD joint team for the purposes of identifying and reporting on all DOD interrogation techniques related to operations in GTMO, Afghanistan, Iraq, the Central Command (CENTCOM) area of operations (AOR), and the Iraqi Survey Group (ISG). Specifically, the assessment would ensure that all areas of concern to the DOD regarding detention operations were being addressed adequately and expeditiously, and would report any gaps or seams among those reviews and investigations. This assessment was commonly referred to as the Church Report. The Church Report was released on 10 March 2005.

f. (U) On 21 July 2004, the Inspections Division, DAIG, completed a "Detainee Operations Inspection" report that included Iraq. This report responded to the Acting Secretary of the Army's directive to conduct a functional analysis of the Army's conduct of detainee and interrogation operations to identify any capability shortfalls with respect to internment, enemy prisoner of war detention operations and interrogation procedures and to recommend appropriate resolutions or changes if required.

g. (U) On 23 August 2004, the Kern Report was released. The Kern Report consisted of the classified Kern Report; an unclassified Executive Summary (EXSUM) of the Kern Report, and the two unclassified Jones and Fay Reports.

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h. (U) On 24 August 2004, a DOD independent panel completed its Final Report of the Independent Panel to Review DOD Detention Operations. The DOD panel members provided independent professional advice on detainee abuses in the CENTCOM AOR, what caused them, and what actions should be taken to preclude their repetition. The panel reviewed various criminal investigations, and a number of command and other investigations. The Honorable James R. Schlesinger was the panel chairman. This assessment was commonly referred to as the Schlesinger Report.

i. (U) The senior leader focus of this DAIG inquiry differed from that of the Taguba, Kern, Jones, Fay, Church, and Schlesinger reports. Although there were instances where DAIG's conclusions differed from the Kern, Jones, Fay, and Schlesinger reports, the differences were attributed to DAIG having fewer time constraints and the opportunity to review additional evidence not available at the time these reports were finalized. In certain instances, the supporting evidence in the reports did not meet DAIG's preponderance of the evidence standard and DAIG was unable to reach the same conclusions. Differing findings in this DAIG inquiry and the cited reports should not be misinterpreted to mean that DAIG found the reports to be inaccurate. Each report must be considered in light of its focus, the evidence available at the time, the personal observations of the investigative team, and the documentation supporting the findings.

4. (U) Operational Environment:

a. (U) On 20 March 2003, coalition forces, which included V Corps, began combat operations to disarm Iraq of its weapons of mass destruction (WMD) and to remove the Iraqi regime from power. Military operations continued after the end of major combat operations on 1 May 2003. Initially, the Office of Reconstruction and Humanitarian Assistance (ORHA) was established under CFLCC (3d US Army) to help rebuild Iraq. ORHA was followed in May 2003 by the Coalition Provisional Authority (CPA), under the direction of Ambassador (AMB) L. Paul Bremer, Presidential Envoy to Iraq, who reported to the Secretary of Defense (SECDEF). The establishment of the CPA marked a deliberate transition from military primacy and civil subordination to the CPA with civilian lead and the military element in a supporting role.

b. (U) US Army Forces, US Central Command (ARCENT), was previously designated as the CFLCC conducting operations in support of Operation Enduring Freedom (OEF) in Afghanistan, and was forward deployed in Kuwait. CFLCC also had responsibility for all coalition land combat forces in the Iraqi Theater of Operations (ITO). As a warfighting HQs, CFLCC prosecuted Phases I-III (through major combat operations) of the CENTCOM Operations Plan (OPLAN) for the liberation of Iraq at the operational level of war. During OIF, the descending chain of command and corresponding lines of authority and responsibility were from CENTCOM to CFLCC to V Corps.

c. (U) As a result of CFLCC's focus on campaigns in Afghanistan and Iraq over a two-year period, CENTCOM determined that CFLCC needed to return to its AOR-wide focus, and that a dedicated headquarters was required for Phase IV operations in Iraq. On 15 June 2003, V Corps transitioned into CJTF-7. At the direction of CENTCOM, CJTF-7 began Phase IV (Stability and Support Operations (SASO)) of the CENTCOM OPLAN.

d. (U) CFLCC ceased to be a coalition warfighting HQs at the operational level of war in the ITO and ceased to be CJTF-Iraq, a role assumed three weeks prior. CFLCC reestablished its principal role as the Army Service Component Command (ASCC) of CENTCOM. As such, CFLCC became a strategic force provider while providing essential logistics, communications, engineer, and medical support to all deployed Services in the CENTCOM AOR. Elements of the CFLCC staff, some of whom had been in the AOR since June 2001, redeployed to Fort McPherson, GA. Other CFLCC staff members were assigned in support of CJTF-7.

e. (U) CJTF-7 assumed CFLCC's roles, missions and responsibilities as the senior tactical and operational HQs in the ITO. CJTF-7 was also responsible to provide direct support to the CPA. MG Sanchez, the former CDR, 1st AD, was promoted to LTG, and assumed command of V Corps on 14 June 2003 and of CJTF-7 on 15 June 2003. LTG Sanchez transitioned from commanding approximately 15,000 Soldiers in a division to over 180,000 people in a coalition. In a short period, V Corps transitioned from a tactical warfighting Army component HQs to a multinational JTF whose missions and responsibilities extended across the entire spectrum of conflict and included joint, coalition and civilian agencies. Its support to the CPA added a strategic and Political/Military (POLMIL) dimension to its responsibilities. Additionally, "de-Ba'athification" decisions were made at a level above CJTF-7 to exclude certain former Ba'ath party members from participation in the interim Iraqi Government (IIG), and the Iraqi Army was disbanded. These decisions affected the political-military environment in which CJTF-7 operated, which included a level of resistance from the Iraqi Sunni community.

f. (U) A Joint Manning Document (JMD) was developed to delineate the specific skill sets of personnel needed to perform the increased roles and functions of the new HQs. After multiple reviews, the JMD was formally approved for 1400 personnel. The JMD included personnel needed to support the CPA, staff the functional elements needed to focus at the joint operational and strategic levels, and specifically augment areas such as intelligence, operations, and logistics. The V Corps staff transitioned to only 495 personnel within the new manning requirement. The new JMD also required that key staff positions be manned by general officers (GOs) rather than the normal colonel level positions on a Corps staff. The CJTF-7 staff began with a strength below 40% and achieved no more than a 60% fill through December 2003.

g. (U) In July 2003, shortly after the stand-up of CJTF-7, LTG Sanchez and the Vice Chief of Staff, Army (VCSA) discussed the lack of intelligence capacity and GO manning in CJTF-7. The VCSA committed to providing additional GOs in support of CJTF-7. The CPA had manning challenges similar to CJTF-7, and little capability outside of Baghdad. In recognition of CPA's personnel shortfalls, CJTF-7 provided hundreds of personnel to augment the CPA staff, and provided considerable direct support to CPA. The Chief of Staff (CofS), CJTF-7, worked full-time at the CPA HQs in support of CPA missions. In the absence of the CofS, MG Walter Wojdakowski, DCG, CJTF-7, assumed the CofS role for the remaining CJTF-7 staff at Camp Victory, Baghdad. Until their dissolution in June 2004, CPA and CJTF-7 worked in concert in recognition that political and military operations in Iraq could not be separate and distinct from one another.

h. (U) There was a belief that a corps, with augmentation, was capable of executing a JTF SASO in a permissive environment. This decision also anticipated a growth in Iraqi capabilities and institutions to assist in that effort. As such, plans for Phase IV (SASO) anticipated a relatively permissive environment. In reality, following the conclusion of major combat operations in May 2003, the conflict transitioned to a terrorist/insurgency environment in August/September 2003. Coalition forces began capturing and interrogating larger numbers of alleged insurgents. AGP, re-opened initially by AMB Bremer as the only available facility to hold criminals pending restoration of the Iraqi national justice and corrections systems, was used to detain and interrogate insurgents and other persons of intelligence interest.

i. (U) The unit with command responsibility for detention operations at AGP was the 800th Military Police (MP) BDE, a US Army Reserve (USAR) unit assigned to CFLCC to conduct internment/resettlement (I/R) operations in theater. The 800th MP BDE was commanded by BG Janis Karpinski, who assumed command on 29 June 2003 from BG Paul Hill, following the end of Phase III operations. On 15 June 2003, the 800th MP BDE was placed under the Tactical Control (TACON) of CJTF-7, while remaining under the operational control (OPCON) of CFLCC.

j. (U) The unit with command responsibility for interrogation operations at AGP was the 205th MI BDE, commanded by COL Thomas M. Pappas since 1 July 2003. The 205th MI BDE was an assigned V Corps unit. COL Pappas, as the senior MI CDR in the ITO, was responsible for effectively employing intelligence assets in the accomplishment of assigned missions.

k. (U) From approximately 5 October to 3 December 2003, a team of subject matter experts from JTF-GTMO, under the OPCON of the 205th MI BDE, assisted in the implementation of the recommendations identified by the Miller Report. The GTMO Team included three interrogators and three analysts, organized into three teams, with one interrogator and one analyst on each, which was the GTMO "Tiger Team" concept. The GTMO Team was tasked with the mission of assisting the building of a robust and effective Joint Interrogation and Debriefing Center (JIDC), and identifying solutions and providing recommendations for the JIDC. This was a deliberate effort in support of the realization by AMB Bremer and LTG Sanchez that the CPA and CJTF-7 required a higher degree of operational intelligence in order to define and combat the growing insurgency.

l. (U) From 7 to 21 October 2003, a five person Interrogation Support to Counterterrorism (ISCT) Mobile Training Team (MTT) from the US Army Intelligence Center, Fort Huachuca, AZ, conducted an overall assessment of interrogation operations, presented training, and provided advice and assistance at the AGP JIDC. This course was initially developed in response to requirements that surfaced during interrogation operations at GTMO, and specifically to prepare reserve interrogators and order of battle analysts for deployment to GTMO. This was an additional effort to strengthen intelligence gathering skills and effectiveness within the ITO.

m. (U) In September and October 2003, CJTF-7 published Interrogation and Counter Resistance Policies (ICRP). These policies were prepared at the recommendation of MG G. Miller during his visit to Iraq, and were based on LTG Sanchez' awareness of various DOD policies for GTMO, his own awareness of the applicability of the Geneva Conventions (GCs) in the ITO, and his concerns over the variety of interrogator experience from other theaters. The policy was intended to specify allowable interrogation techniques, ensure safeguards, and facilitate training and execution by the 205th MI BDE CDR.

n. (U) MG Barbara Fast was the C-2, CJTF-7, and as such was responsible for staff oversight of intelligence and interrogation operations. MG Thomas Miller was the C-3, CJTF-7, and was responsible for staff oversight of detention operations. He exercised staff oversight of detention operations through the PM, CJTF-7. COL Marc Warren was the Staff Judge Advocate (SJA), CJTF-7, and was the principle legal advisor to LTG Sanchez on the applicability of the GCs and the Law of War in the ITO. As the DCG, CJTF-7, MG Wojdakowski supervised the 15 separate brigades (SEP BDEs) that were assigned, OPCON, or TACON to CJTF-7. These SEP BDEs included the 205th MI BDE and the 800th MP BDE. He was the rater for COL Pappas, MG Fast, and MG T. Miller. LTG Sanchez was the rater for MG Wojdakowski and COL Warren.

5. (U) Allegation #1: LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations.

a. (U) The allegation was derived from information contained in the Kern, Jones, and Schlesinger Reports.

b. (U) The Kern Report reflected that there was a lack of clear command and control of detainee operations at the CJTF-7 level, and there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits.

c. (U) The Jones Report reflected that:

(1) (U) The CG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations.

(2) (U) The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership.

(3) (U) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff.

d. (U) The Schlesinger Report reflected:

(1) (U) LTG Sanchez failed to ensure proper staff oversight of detention and interrogation operations.

(2) (U) LTG Sanchez should have ensured his staff dealt with the command and resource problems. He should have ensured that urgent demands were placed for appropriate support and resources through CFLCC and CENTCOM to the Joint Chiefs of Staff (JCS).

(3) (U) Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(4) (U) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(5) (U) If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the CG, CJTF-7, could have set in motion the development of a more effective alternative course of action.

(6) (U) LTG Sanchez was responsible for establishing the confused command relationship at AGP. There was no clear delineation of command responsibility between the 320th MP Battalion (BN) and the 205th MI BDE.

[IO Note: The 320th MP BN was a subordinate unit of the 800th MP BDE, and was directly responsible for the detention mission at AGP.]

(7) LTG Sanchez should have taken more forceful action in November 2003 when he fully comprehended the depth of the leadership problems at AGP. His apparent attempt to mentor BG Karpinski was insufficient in a combat zone in the midst of a serious and growing insurgency.

(8) (U) There was a failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at AGP were known and under investigation as early as January 2004, but the gravity of the abuses was not conveyed up the chain of command to the SECDEF. The Taguba Report was transmitted to LTG Sanchez and the CG, CENTCOM, but the impact of the photos was not appreciated by any of these officers.

(9) (U) CJTF-7 determined that some of the detainees held in Iraq were to be categorized as unlawful combatants. Despite lacking specific authorization to operate beyond the confines of the GCs, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President of the United States and extended it in Iraq to

those who were not protected as combatants under the GCs. CJTF-7 understood there was no authorization to suspend application of the GCs. CJTF-7 had no means of discriminating detainees among the various categories of those protected under the GCs and those unlawful combatants who were not.

6. Allegation #2: LTG Sanchez improperly communicated interrogation policies.

a. (U) The allegation was derived from information contained in the Jones and Schlesinger Reports.

b. (U) The Jones Report reflected policy memorandum promulgated by LTG Sanchez led indirectly to some of the non-violent and non-sexual abuses. Interrogation technique memorandums did not adequately set forth the limits on interrogation techniques. Existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned in order to gain intelligence. Lack of consistent policy and command oversight regarding interrogation techniques, coupled with changing policies, contributed to the confusion concerning what techniques could be used, which required higher level approval, and what limits applied to permitted techniques.

c. (U) The Schlesinger Report reflected the policy memoranda promulgated at the CJTF-7 level allowed for the interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.

7. (U) Synopsis:

a. Allegation #1: LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations.

(1) (U) Article 92 of the Uniform Code of Military Justice (UCMJ) stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

(2) (U) A review of the information relevant to this allegation revealed the following:

(a) (U) As the CG, CJTF-7, LTG Sanchez was responsible for all CJTF-7 operations in CJTF-7's AOR. CDRs were responsible for everything their command did or failed to do. CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. As such, LTG Sanchez properly delegated authority for detention and interrogation operations to the CDRs of the 800th MP BDE and 205th MI BDE, respectively. He assigned staff responsibility for detention operations to the C-3, who exercised staff oversight through the PM. He assigned staff responsibility for interrogation operations to the C-2, and assigned overall supervisory responsibility for the CJTF-7 staff to MG Wojdakowski as the de facto CofS. Additionally, he properly delegated authority to MG Wojdakowski to supervise CJTF-7's 15 SEP BDEs, which included the 800th MP BDE and 205th MI BDE. LTG Sanchez knew and accepted his duties as the CG, CJTF-7, regarding detention and interrogation operations.

(b) (U) The evidence established that LTG Sanchez properly provided oversight of those SEP BDEs and elements of the CJTF-7 staff with responsibility for detention and interrogation operations. Through MG Wojdakowski, LTG Sanchez established regular procedures by which he provided oversight of the SEP BDEs, regardless of whether the units were OPCON or TACON to CJTF-7. MG Wojdakowski provided frequent guidance and mentoring to COL Pappas and BG Karpinski, and counseled them regularly. He mentored COL Pappas concerning his broad range of responsibilities as the senior MI CDR in the ITO, the need to develop a disciplined organization, and the need to closely supervise because of the BDE's high-risk operations. MG Wojdakowski and LTG Sanchez both met with BG Karpinski and the out-going CDR of the 800th MP BDE in June 2003, prior to her assumption of command. At that time, BG Karpinski indicated that she was the single CDR responsible for detention operations in the ITO. MG Wojdakowski provided BG Karpinski guidance and direction regarding contracting, logistics, personnel, and force protection issues. He spoke with her almost daily regarding her concerns about personnel and force protection at AGP. He provided her substantial guidance and assistance within CJTF-7's authority and resourcing level while holding her responsible for matters within her control.

(c) (U) The CJTF-7 leadership provided routine oversight of the SEP BDEs through a variety of mechanisms. MG Wojdakowski held thrice-weekly tactical satellite (TACSAT) updates with the SEP BDE CDRs, which kept him and LTG Sanchez abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Monthly logistics readiness reviews (LRRs) were held in which the CDRs provided MG Wojdakowski updates on their materiel readiness, resource, and life support issues. As these SEP BDE CDRs planned and executed missions, MG Wojdakowski appropriately required that they rehearse and outline their plans to him.

(d) (U) As the de facto CofS, MG Wojdakowski properly managed multiple staff activities pertaining to detention and interrogation operations on a regular, systemic basis. MG Wojdakowski provided oversight of the CJTF-7 staff by synchronizing the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. Liaison officers (LNOs) from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the 800th MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. MG Wojdakowski provided resources in terms of equipment, supplies, and contracting for the interrogation mission, and received regular updates from MG Fast and COL Pappas. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Additionally, CJTF-7 published several fragmentary orders (FRAGOs) that addressed detention operations and the treatment of detainees.

(e) (U) In addition to establishing oversight of the SEP BDEs and staff through MG Wojdakowski, LTG Sanchez was also directly involved in providing such oversight. MG Fast regularly received guidance on intelligence priorities directly from LTG Sanchez, and she or her staff briefed him daily. In the fall of 2003, she accompanied him during a walk-though of AGP to observe on-going detention and interrogation operations, and (b)(7)(D) LTG Sanchez visited AGP several times as part of his effort to periodically visit his units. He met personally with the interrogators at AGP to emphasize the limits of their interrogation authorities. He provided considerable guidance on interrogation operations directly to COL Pappas, and in November 2003, he directed COL Pappas to move to AGP in order to ensure more command oversight of the interrogation operation. LTG Sanchez had frequent interaction with BG Karpinski, and as a result of one of their meetings, directed that AGP become an enduring base, and thus receive higher priority for resources. The evidence indicated that both LTG Sanchez and MG Wojdakowski provided oversight of the 800th MP BDE, a TACON unit, in a manner similar to the oversight provided to CJTF-7's OPCON or assigned units.

(f) (U) CJTF-7 hosted two detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the Divisions, the 205th MI BDE, and the 800th MP BDE. AMB Bremer and the CPA had a legitimate political interest for CJTF-7 to expeditiously identify and release eligible civilian detainees back into the populace in order to reduce civil tensions. LTG Sanchez and CJTF-7 had a legitimate military interest to identify, detain and interrogate detainees identified to have intelligence value. Detention summits were a means for CJTF-7 leaders to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort.

(g) (U) LTG Sanchez recognized and addressed the challenges inherent in re-establishing an Iraqi national prison system while concurrently identifying, detaining and interrogating persons of intelligence value. He pro-actively sought assistance and additional resources to address shortfalls in both the detention and interrogation operation. In the summer of 2003, LTG Sanchez requested assistance in detention operations that resulted in MG Ryder's assessment team visit in October 2003. LTG Sanchez was personally briefed by MG Ryder on the results of his detention operations assessment, and he directed the implementation of MG Ryder's recommendations. LTG Sanchez also recognized that CJTF-7's interrogation operations were not configured to produce the actionable intelligence required to fight the insurgency, and identified this as a shortfall to his chain of command. Consequently, MG Fast was sent to direct the establishment of a viable intelligence architecture. In response to the requirement to develop operational intelligence capabilities, MG G. Miller's assessment team provided feedback on the establishment of effective interrogation operations that could produce the intelligence needed to address the growing insurgency. MG G. Miller out-briefed LTG Sanchez personally on the results of his assessment, and later sent interrogation Tiger Teams to assist the 205th MI BDE in establishing this capacity. As such, the evidence established that LTG Sanchez was actively and personally involved in the establishment and assessment of detention and interrogation operations, and was pro-active in responding to identified shortcomings by requesting appropriate assistance.

(h) (U) Strategic leaders were responsible for establishing structure, allocating resources, and articulating strategic vision. As a three-star CG of a combined joint task force, LTG Sanchez properly exercised his responsibilities at the strategic level of leadership. In addition to his responsibilities commanding CJTF-7, LTG Sanchez was appropriately focused on supporting the CPA, interfacing with DOD and the National Command Authority, and contributing to the effort to re-build Iraq's infrastructure. He directed MG Wojdakowski to focus on fighting the coalition's counter-insurgency fight, resourcing CJTF-7's operations, and providing strategic-level oversight of detention and interrogation operations. The senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. LTG Sanchez expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive and appropriate supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, LTG Sanchez, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP.

(i) (U) Direct supervision of the MP Soldiers at AGP was the responsibility of the 320th MP BN CDR and his subordinate leaders. Prior to COL Pappas' arrival at AGP in November 2003, direct supervision of the MI Soldiers at AGP was the responsibility of LTC Steven Jordan and subordinate MI leaders in the JIDC. Leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The command and staff failures cited by the Schlesinger Report and attributed directly to detainee abuse were failures in leadership at the BDE and BN levels. These failures were not attributable to a lack of oversight by LTG Sanchez.

(j) (U) LTG Sanchez' ability to provide a higher degree of oversight was hampered by the corps staff's lack of preparation and training as a CJTF; the low manning and experience level of the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. CJTF-7 was never fully resourced in terms of personnel, either in raw numbers, experience, or grade-level. The CJTF-7 staff did not undergo a battle command training program (BCTP) normally afforded to new corps-level staffs and CDRs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. A portion of the staff, to include the CofS, moved from the Main CJTF-7 HQs to co-locate with the CPA. CJTF-7's challenges were exacerbated by the slow fill and short-duration personnel rotations at the CPA attributed to various Service and CPA rotation policies. As a result, a significant portion of the already under-strength staff was devoted to assisting the CPA with the huge mission of reconstructing Iraq's infrastructure and the building of internal Iraqi security forces, adversely affecting LTG Sanchez' ability to provide additional oversight.

(k) (U) LTG Sanchez provided oversight of detention and interrogation operations in a manner that could reasonably be expected considering the broad range of his and his subordinate's responsibilities and the available resources. Given the enormity of CJTF-7's mission and the lack of adequate personnel resources, LTG Sanchez properly subdivided responsibility and authority for detention and interrogation operations to the appropriate subordinate CDRs and staff. In spite of multiple responsibilities and significant resource challenges, numerous witnesses testified to efforts made by LTG Sanchez to inform, mentor, direct, resource and supervise his subordinates through a variety of mechanisms. The evidence also established that LTG Sanchez held his staff and subordinate CDRs accountable for their responsibilities, and he expected them to fully employ their own leadership and internal resources prior to asking for additional resources in a constrained environment.

(l) (U) CJTF-7 was criticized for not designating a GO in charge of both detention and interrogation operations. While the desirability for a GO in charge of both operations may have been obvious in hindsight, this approach was not doctrinal. Army doctrine was silent as to who should have overall responsibility for both operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. As early as November 2003, during the Ryder visit, LTG Sanchez discussed his desire for a MP GO staff principal, and instead received a colonel to serve as the PM. CJTF-7 did not have the resources to create an additional GO position, and the JMD process could not support such a position in a timely manner. Eventually, MG G. Miller was assigned DCG for Detainee Operations, CJTF-7, in April 2004. As such, the initial absence of such a position was not indicative of a lack of action on the part of LTG Sanchez, or of impropriety on his part.

(m) (U) LTG Sanchez and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP. CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely attacked. LTG Sanchez characterized the challenging logistics posture throughout 2003 as "expeditionary logistics." In addition, much of Iraq's infrastructure was severely damaged and looted far beyond predictions. While the CPA and CJTF-7 hoped to leverage existing Iraqi infrastructure and institutions, the extreme level of degradation and damage became an additional inhibitor rather than a multiplier. As a direct result, Soldiers' and detainees' living conditions alike were difficult and austere throughout Iraq, to include AGP.

(n) (U) When BG Karpinski raised resourcing concerns to LTG Sanchez during his visit to AGP in October 2003, LTG Sanchez directed that AGP be declared an enduring base. AGP was originally intended by CPA to be a temporary facility until a new prison could be built. The status of enduring base gave AGP a higher priority for reconstruction funds from the CPA. As a result, additional funds and engineering effort were applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. When the shortage of prisoner clothing was brought to MG Wojdakowski's attention, he directed the CJTF-7 staff to purchase additional jumpsuits. Furthermore, testimony indicated that the 800th MP BDE received support in a manner similar to that of CJTF-7's assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing by CJTF-7. Although the TACON relationship did not require CJTF-7 to provide the 800th MP BDE's logistical support, BG Karpinski was encouraged to obtain her BDE's logistics from the Corps Support Command (COSCOM), which was more convenient for the BDE than moving their supplies from the 377th TSC in Kuwait. There was no evidence that BG Karpinski raised critical logistics issues to the 377th TSC, the 800th MP BDE's OPCON HQs. In sum, LTG Sanchez and his staff were responsive to resource shortcomings that were brought to their attention, and they responded in a manner consistent with their authority and resourcing level in an "expeditionary logistics" environment.

(o) (U) LTG Sanchez acted appropriately when apprised of personnel shortfalls in the 800th MP BDE. The Reserve Component (RC) had no replacement system for individual losses. The 800th MP BDE, as well as other RC units, was eroded in personnel strength due to losses by illness, injury, or demobilization requirements. The shortages were systemic RC issues and not due to lack of oversight on the part of CJTF-7. While CJTF-7 recognized these personnel shortages, they had no means to alleviate them. The theater rotation plan was the only means to significantly affect MP unit strength. Although the Ryder report identified that the 800th MP BDE was under-strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining BN and company sized units to meet its mission requirements. MG Ryder told LTG Sanchez that BG Karpinski had not properly allocated her MP resources, but she could accomplish the mission with the force structure she had. MG Ryder briefed these findings to LTG Sanchez and MG Wojdakowski, who considered MG Ryder's assessment.

(p) (U) Testimony indicated that up to 75% of the Army's MP assets were already in Iraq. Additional MP companies were not available, and some replacement companies for the 800th MP BDE would be in lieu of (ILO) companies. ILO companies were non-MP units, such as field artillery batteries, who were trained to perform MP missions. The most feasible solution for the immediate shortage of MPs was the internal redistribution of the 800th MP BDE's units. Upon becoming aware of BG Karpinski's personnel concerns and the lack of theater replacements, multiple leaders attempted to influence BG Karpinski to internally redistribute her own resources between detention facilities. Testimony indicated she was reluctant to move her units. BG Karpinski did bring reasonable concerns about her personnel strength to MG Wojdakowski, and he properly indicated to her that he could not help her with replacements due to the lack of a replacement system for reservists and the lack of an Army stop loss policy at the time. Both LTG Sanchez and MG Wojdakowski were aware that there were few, if any, MP units remaining in the Army available for deployment to Iraq, and in December 2004, MG Wojdakowski moved MPs from the 1st AD to AGP to relieve some of the pressure. LTG Sanchez' and his staff's actions regarding the 800th MP BDE's personnel shortages were appropriate in light of the limited resources available.

(q) (U) The evidence indicated that when force protection issues concerning AGP arose, LTG Sanchez took appropriate action. The C-3 worked battle space management and friendly unit boundary issues external to AGP to reduce instances of mortar attacks. During his walk-though of AGP in October 2003, LTG Sanchez was concerned about the inadequate force protection preparations made by the 320th MP BN and directed corrective action. During his return visit to AGP in November 2003, LTG Sanchez noted that no improvements had been made to AGP's force protection posture, in spite of his directives. MG Fast also noted force protection deficiencies during this same timeframe. (b)(7)(D) [redacted]

(b)(7)(D) [redacted]

(r) (U) Although the Schlesinger Report indicated that there was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE, COL Pappas indicated that he understood his responsibilities with respect to force protection of the FOB and that LTC Jerry Phillabaum, CDR, 320th MP BN, understood that he still had the responsibility to run the detention operation. In fact, by making COL Pappas the FOB CDR, CJTF-7 FRAGO 1108 fixed responsibility for force protection at AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO. There was no credible evidence that LTG Sanchez' designation of COL Pappas as the FOB CDR of AGP for force protection resulted in a confused relationship between the two units at the prison. LTG Sanchez took appropriate and responsible actions to enhance the protection of both Soldiers and detainees at AGP.

(s) (U) Initially, CJTF-7 procedures for dealing with visits by the ICRC were not specifically defined. Prior to October 2003, CJTF-7 enjoyed a good working relationship with the ICRC and worked closely with its members. Following the bombing of the ICRC compound in Baghdad in October 2003, the ICRC moved its operation to Jordan, and the previously close relationship with CJTF-7 waned due to the arrival of new ICRC personnel with whom CJTF-7 had no previous working relationship and to the long travel distance. The ICRC's visit to AGP in early October 2003 did not go well due to this loss of a routine working relationship and poor execution by the 320th MP BN. Until the procedure was changed by LTG Sanchez in December 2003, the ICRC's established procedure was to provide its reports to the lowest level of command in order to preserve the confidentiality of the ICRC process. As such, the ICRC provided its Working Paper on the results of the October 2003 visits to AGP that included allegations of detainee abuse, such as forced nakedness and humiliation, to BG Karpinski in November 2003. She provided a written response to the ICRC in late December 2003.

(t) (U) Copies of the Working Paper were made available to members of the Office of the SJA (OSJA), CJTF-7, the 205th MI BDE, the 800th MP BDE, as well as others on the CJTF-7 staff. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible based on their inquiries with personnel who spent time at the prison, and did not report or investigate them further. In December 2003, COL Warren informed LTG Sanchez of the procedural problems with the October 2003 ICRC visit. LTG Sanchez directed COL Warren to clarify ICRC visit procedures and directed that all ICRC reports would be reported out through him so that he could remain fully informed and direct corrective action as required. LTG Sanchez was not made aware of the allegations of abuse contained in the Working Paper until February 2004, after the Taguba Investigation had started. Upon being informed by COL Warren of the specifics of the allegations, LTG Sanchez ensured that the allegations were being investigated by MG Taguba. As such, the evidence established that once apprised of the ICRC procedural issues and allegations of abuse, LTG Sanchez took appropriate corrective action to ensure better procedures were established and that the allegations were properly and thoroughly investigated.

(u) (U) Army leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating structures and programs for ensuring that procedures developed at lower levels further supported Army policies and values. As such, the evidence established that LTG Sanchez took appropriate action with respect to developing courses of action and procedures for detention operations. In the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required and recognized that expert assistance was needed. LTG Sanchez raised his concerns to higher HQs. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These assistance teams provided on-site training to units involved in the detention and interrogation mission and provided examples of applicable SOPs and policies. LTG Sanchez was briefed on and considered the teams' findings. Additionally, interrogation Tiger Teams were sent to the 205th MI BDE to assist with interrogations, and a team from the Intelligence Center was sent to AGP to provide more intelligence operations training.

(v) (U) Furthermore, the CJTF-7 leadership directed the 800th MP BDE to move its HQs to Iraq in order to more closely supervise the detention mission for which it was responsible. Testimony indicated that the C-3 published several FRAGOs providing detention operations guidance and direction. Detention summits were held in order to assess the on-going mission, during which issues were raised and corrective action was directed. When LTG Sanchez declared AGP an enduring base, additional resources were directed towards the improvement of AGP's facilities. The number of detainees was tracked regularly, and as capacities were reached, detainees were cross-leveled between detention facilities. LTG Sanchez was aware that additional MP units were not available, and the Army was using ILO units to replace MP companies in the ITO. As such, his decision to not initiate a request to higher HQs for additional MP forces was reasonable, and instead, BG Karpinski was encouraged to internally redistribute her own resources. Additionally, in December 2003, MPs from the 1st AD were moved to AGP to augment the MP force. The evidence established that the detention mission in Iraq was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. As such, LTG Sanchez' actions with respect to anticipating and developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

(w) (U) By November 2003, LTG Sanchez was seriously concerned about the leadership of the 800th MP BDE at AGP, and he took appropriate action. During his visit to AGP in November 2003, he noted the lack of improvement in the defense preparations by the 320th MP BN and the 800th MP BDE and their failure to follow his previous directives. As a result, he directed that COL Pappas, as the senior CDR present and, in several witnesses' view, a more competent leader, be the FOB CDR in charge of force protection at AGP. He counseled BG Karpinski during this visit regarding his concerns about the lack of force protection improvements, and told her she needed to take all actions commensurate with her rank and authority to take care of her Soldiers, and that if she did not receive the support she needed from his staff, to raise the issue to his level. LTG Sanchez' counsel to BG Karpinski was appropriate and consistent with the unsatisfactory conditions that LTG Sanchez observed at AGP.

(x) (U) Furthermore, during MG Ryder's out-brief on 6 November 2003, LTG Sanchez asked MG Ryder for his considered opinion on BG Karpinski's leadership. MG Ryder thought BG Karpinski was a weak leader, but his team provided her command the requisite tools and resources she needed to order to succeed pending their scheduled redeployment in early 2004. LTG Sanchez considered seeking BG Karpinski's relief, but decided that since her unit had just undergone a thorough, constructive assessment by MG Ryder's team of detention experts, he would provide her an opportunity to improve her command. Additionally, had he chosen to remove BG Karpinski from command, the evidence established that there were no readily available backfills. MG Ryder informed LTG Sanchez that there were no available MP GOs in the active component (AC) or RC, and the number of MP COLs was very limited. Replacement units for the 800th MP BDE were scheduled to start arriving in January 2004, and the CDRs of those units were reputed to be competent officers. LTG Sanchez believed that BG Karpinski was provided the information and tools she needed to successfully accomplish the detention mission, and, given that he did not have a viable replacement, justifiably made the decision to retain her in command. LTG Sanchez' decision to retain BG Karpinski as the CDR, 800th MP BDE, was a considered one, and was within his authority as the CG, CJTF-7. As such, his decision did not violate an Army standard.

(y) (U) LTG Sanchez and other leaders in CJTF-7 understood the difference between the categorization of a detainee as an enemy combatant and an unlawful combatant, and applied the proper categorization to the detainees held at AGP. LTG Sanchez testified that an unlawful combatant was not the same as an enemy combatant. The term "unlawful combatant" as used in the President's memorandum [of 2002] applied to a category of terrorist to whom the GCs did not apply as a matter of law, such as those detainees held at GTMO. Unlawful combatants were persons who took up arms against occupation forces and did not meet the criteria for enemy prisoner of war (EPW) status and, accordingly, immunity from prosecution for war-like acts. CJTF-7's position was that unlawful combatants in Iraq were nonetheless protected persons under the fourth GC and were afforded the protected status of civilian security detainee. This allowed internees to be prosecuted before the Central Criminal Court of Iraq for attacks on coalition forces, but still afforded them protections under the GCs. The term "unlawful combatant" was never adopted by CJTF-7 because the leadership understood that the GCs were fully applicable to Iraq. The Schlesinger Panel apparently confused the terms and contended that CJTF-7 adopted the 'unlawful combatant" approach. This course of action was rejected by CJTF-7 because the GCs were fully applicable to Iraq. As such, there was no credible evidence that LTG Sanchez improperly permitted the incorrect categorization of detainees in Iraq as "unlawful combatants" who were not subject to the GCs.

(z) (U) The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that LTG Sanchez was not willfully derelict,

negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations.

(aa) (U) Multiple senior leaders, either in LTG Sanchez' chain of command or in positions to make such judgments, unanimously testified to the overwhelming responsibilities placed on LTG Sanchez and CJTF-7 and to his admirable performance of duty in a resource-constrained and hazardous combat theater. No senior leader interviewed believed that LTG Sanchez was derelict in his duties. On the contrary, the Jones Report indicated that the CJTF-7 staff performed above expectations in the overall scheme of OIF, in a "tremendously horrid environment" while confronting "a faceless enemy whose hatred of the US knew no limits." The report further stated that had the pace of combat operations and the support to the CPA not been so overwhelming, the CJTF-7 staff might have been able to provide additional oversight to interrogation operations at AGP. LTG Sanchez had a huge scope of responsibility with respect to the support of the CPA, the building of an Iraqi security force, and the reconstruction of Iraq, but he also had to focus on the defeat of the insurgency that was killing his Soldiers. When the complexity, circumstances, and scope of the insurgency were considered, the evidence indicated LTG Sanchez exceeded expectations. His accomplishments were especially noteworthy given the under-resourced and inexperienced staffs in CJTF-7 and CPA with which LTG Sanchez had to work. It was undisputed that a horrible incident took place at AGP. LTG Sanchez reported it quickly once it was brought to his attention because he recognized that it was a major problem, and promptly initiated an investigation. When the Taguba investigation was complete, LTG Sanchez took the additional step of requesting a second investigation, which was ultimately completed by GEN Kern, to thoroughly and completely investigate all the abuse incidents at AGP. There was no effort by LTG Sanchez or his staff to minimize, hide, or ignore the situation. LTG Sanchez accepted responsibility for his command, held those within his command responsible for their actions, and directed investigations to identify failures and fix responsibility.

(bb) (U) There was no evidence that LTG Sanchez was derelict in his duties with respect to detention and interrogation operations through willfulness, neglect, or culpable inefficiency. On the contrary, LTG Sanchez consistently and pro-actively took appropriate action at the strategic level of leadership regarding the oversight, resourcing, and planning for both missions. There was no evidence of negligence, culpable inefficiency, or willful dereliction. LTG Sanchez recognized early on that there were shortfalls in the detention and interrogation missions, and immediately requested assistance, resulting in the Ryder and Miller team visits and the subsequent deployment of follow-on training and assistance teams. LTG Sanchez pushed for a greater fill of GOs on the staff to provide the level of authority and experience needed to operate at a CJTF level, and received GOs for several key staff positions. He requested a GO for detention operations in recognition of the challenges that remained in that area, but a GO did not arrive until March-April 2004. When resourcing shortcomings at AGP were brought to his attention, he declared AGP an enduring base and additional funds and engineering effort were directed to the prison. He personally inspected the force protection preparations at AGP, and upon determining that the defense measures were unsatisfactory, immediately made the decision to change the TACON relationship at AGP to ensure force protection improvements were made. He emphasized the humane treatment of Iraqi citizens and the applicability of the GCs in multiple FRAGOs and during his personal visit with the interrogators at AGP.

(cc) (U) By all accounts, LTG Sanchez was an involved leader who took the time to visit his units and Soldiers and readily directed corrective action when he observed problems or when issues were brought to his attention. As GEN Kern testified, LTG Sanchez' integrity in establishing accountability was very clear, and he held himself personally responsible for what happened. While certain alternative actions, in hindsight, might have been more effective or beneficial, LTG Sanchez' actions, in the context of the environment in which they occurred, were not willfully derelict, negligent, or culpably inefficient. Rather, the austere environment, lack of staff, and growth of responsibilities all created obstacles that LTG Sanchez and the CJTF-7 staff successfully overcame through, by all accounts, heroic efforts. As such, LTG Sanchez' actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, LTG Sanchez' efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

(dd) (U) The preponderance of the evidence indicated that LTG Sanchez was not derelict in the performance of his duties pertaining to detention and interrogation operations.

b. (U) Allegation #2: LTG Sanchez improperly communicated interrogation policies.

(1) (U) AR 600-100 stated that all leaders were responsible for effectively communicating vision, purpose, and direction. GOs at the strategic levels of the Army were responsible for creating policies, structures, and programs. They affected all members junior to them by formulating policies that supported and sustained Army values, and by ensuring that procedures developed at lower levels further supported Army policy and values.

(2) (U) A review of the information relevant to this allegation revealed the following:

(a) (U) The development of CJTF-7 interrogation policy was part of a broad, deliberate and iterative effort by LTG Sanchez to meet recognized needs in detention and interrogation operations. As cited previously, AGP was re-opened by the CPA to begin to reestablish the Iraqi prison system. As CJTF-7 became increasingly involved in counter-insurgency operations, AGP was also used for the detention of civilian security detainees suspected to be involved in the insurgency. MI units were assigned to AGP to establish an initial interrogations capacity. MG Fast arrived at CJTF-7 and was charged to develop an operational intelligence capability for CJTF-7 and the CPA. In August 2003, CJTF-7 requested the MG Ryder assessment, a strategic look at both military and Iraqi national detention systems. At about this time, LTG Sanchez determined that the current interrogation efforts were not producing the actionable intelligence needed to fight the insurgency. He was concerned about the training and experience level of the interrogators and the lack of a theater-level interrogation policy. Early in September 2003, MG G. Miller visited the ITO to provide recommendations in support of improved operational interrogation capabilities.

(b) (U) During his out-brief to LTG Sanchez in September 2003, MG G. Miller recommended that CJTF-7 develop interrogation authorities and promulgate a memorandum because the interrogators were unsure of their authorities. LTG Sanchez agreed, and directed COL Warren to take the lead on the development of a CJTF-7 interrogation policy. A working group consisting of SJA officers and MI personnel from the 205th MI BDE drafted the interrogation policy. The 14 September 2003 policy drew heavily from the 16 April 2003 SecDef Global War on Terrorism (GWOT) memorandum to the CDR, US Southern Command (USSOUTHCOM) that provided interrogation guidance to JTF-GTMO. MG G. Miller provided a copy of the GWOT memorandum to CJTF-7 to use as a source for their interrogation policy, with the understanding that it required modification for use in a theater in which the GCs applied. The 14 September 2003 CJTF-7 policy also drew from the 1987 version of Field Manual (FM) 34-52, Intelligence Interrogation, as well as the prior experience of MI personnel in Afghanistan, and it included several safeguards. The policy was not staffed with MG Fast, who was out of the theater. The final policy was reviewed by COL Warren, whom LTG Sanchez trusted as an acknowledged Army expert on operational law. COL Warren personally briefed LTG Sanchez on the policy, and after he was assured the policy adequately defined the interrogation authorities while complying with the GCs, LTG Sanchez signed the memorandum. Based on his determination that the need for an interrogation policy was urgent, LTG Sanchez made the conscious decision to implement the 14 September 2003 policy while simultaneously sending it to CENTCOM for comment.

(c) (U) The CENTCOM SJA was concerned that while the interrogation techniques were not illegal per se, the policy should more closely follow FM 34-52 and be more restrictive. As a result, the policy was modified to include only techniques found in the 1987 version of FM 34-52, plus segregation, and additional restrictions were applied. The 12 October 2003 policy was disseminated through the normal FRAGO process. The CENTCOM SJA had no objections to the October policy.

(d) (U) Internal CJTF-7 staffing of the interrogation policies was not ideal and this was influenced by several factors. Interrogation experience and expertise in CJTF-7 resided in the 205th MI BDE. Operational law expertise lay with COL Warren, the SJA. MG Fast, the C-2, was not in theater due to medical reasons during preparation of the 14 September 2003 policy. (b)(7)(D) [redacted] (b)(7)(D) [redacted] (b)(7)(D) [redacted] Interrogation expertise in the 205th MI BDE was greater than in her C-2 organization. The limitations of internal secure communications within CJTF-7, the physical dispersion of the staff, and the urgency of the requirement also hampered traditional staffing procedures. In retrospect, while a broader staffing of the policy with MG Fast was desirable, and could have potentially improved clarity, the evidence indicated such staffing would not have significantly affected the substance of the policy.

(e) (U) The development of the CJTF-7 interrogation policy was a deliberate, iterative process that involved appropriately knowledgeable personnel in the 205th MI BDE, who would be implementing the policy, and the SJAs of CJTF-7 and CENTCOM. The absence of staffing with MG Fast was a potential shortcoming, although mitigated by urgent and difficult circumstances. In light of LTG Sanchez' concern over the need for a theater interrogation authority to define the interrogators' limits, a failure to publish such policy would have potentially been a far greater shortcoming. Additionally, CJTF-7's publication of two different interrogation policies within a month of each other was not improper, nor did that render the policies inconsistent. Although the policy changed significantly from September to October, those changes were in response to identified CENTCOM concerns that were then considered and accepted by the SJA, CJTF-7. Both policies were rooted in FM 34-52, and both required that all interrogations be conducted in accordance with the GCs. As such, the policies' fundamental focus was not inconsistent from one version to the next.

(f) (U) The Jones Report found that some personnel at AGP were confused regarding which interrogation techniques were authorized for use, in spite of LTG Sanchez' attempt to specify a range of interrogation techniques and safeguards. The Jones Report further stated that misinterpretation of CJTF-7 policy memorandums led to some of the non-violent and non-sexual abuses at AGP. The Kern Report cited portions of the September and October 2003 policies that, in the report author's view, were confusing. The portions pertained to the concept of the interrogator's control of all aspects of the interrogation, use of military working dogs, and isolation vs. segregation. However, both MG Fast and LTG Sanchez personally visited with the interrogators in October 2003, inquired into the interrogators' understanding of the policy, and stressed the importance of conducting interrogations within the constraints of the GCs. Neither noted any confusion among the interrogators with whom they met, nor were questions raised regarding the policies. The Church Report found that even if interrogators were confused by the issuance of multiple interrogation policies, none of the approved policies would have permitted the types of abuses that occurred. There was no evidence that clarification of the policies was ever sought by anyone in the 205th MI BDE that may have resulted in a subsequent review and modification of the policy.

(g) (U) Additionally, the 14 September 2003 policy was an amalgam of interrogation techniques already in use at GTMO and Afghanistan. While this "migration" of interrogation techniques was criticized by the Schlesinger Report, it was not unreasonable for the drafters of the policies to incorporate techniques used successfully in other theaters. The FM used by the drafters was 16 years old at the time, and LTG Sanchez already determined that interrogations using only techniques specified by the FM were not producing the intelligence needed to fight the insurgency. MG G. Miller confirmed this shortcoming during his assessment visit, and provided the GWOT memorandum as a resource for the development of a CJTF-7 policy with the caveat that it required modification for the ITO because the GCs applied. Non-FM techniques were not specifically prohibited for use in Iraq. The GWOT memorandum was addressed only to the CDR, SOUTHCOM. No DOD or CENTCOM guidance existed that specified or limited interrogation authorities for any other theater. As such, it was not improper for LTG Sanchez to include effective techniques previously approved for another theater in his interrogation policy for the ITO.

(h) (U) The evidence established that both the September and October 2003 policies included adequate limits and safeguards for the conduct of interrogations. The investigating officer for the PSI that inquired into the actions and legal advice provided by CJTF-7 legal personnel found that neither policy violated the GCs. Additionally, the Church Report found no direct or indirect link between interrogation policy and detainee abuse. The Church Report further found that much of the substantiated abuse was unconnected to any interrogation technique or policy, as it was committed by personnel who were not MI interrogators and who almost certainly did not know the details of the policies. Both CJTF-7 policies required that interrogators conduct interrogations in accordance with the GCs and detailed safeguards. Both policies prescribed specific techniques authorized for use and required personal approval by LTG Sanchez for the

(b)(6) [redacted]

use of any technique not listed in the policy. The C-2 and SJA were required to review any written request for use of a non-specified technique prior to forwarding to LTG Sanchez for approval. No requests for additional techniques were ever sent to LTG Sanchez. Both policies required the development of specific interrogation plans, trained interrogators, and appropriate supervision during execution.

(i) (U) A proper analysis of the CJTF-7 interrogation policies cannot be conducted without a consideration of the responsibilities of leaders below LTG Sanchez' level. As the CG, CJTF-7, LTG Sanchez operated at the strategic level of leadership. Army leaders were responsible for effectively communicating vision, purpose, and direction. GOs at the strategic level were responsible for creating policies, structures, and programs that supported and sustained Army values, and for ensuring that procedures developed at lower levels further supported Army policy and values. By promulgating the CJTF-7 interrogation policies, LTG Sanchez properly communicated explicit interrogation authorities for implementation by the 205th MI BDE and provided the overarching structure by which the 205th MI BDE would conduct interrogation operations. These policies provided the guidance COL Pappas, as a senior leader, was to use to develop specific implementation guidance and standard operating procedures for the execution of the interrogation policies. In turn, MI leaders at the direct level of leadership in the JIDC were responsible for developing interrogation plans, training their interrogators, and supervising the execution of interrogations in accordance with the CJTF-7 policies and, accordingly, the GCs. The Jones Report found that leaders at AGP failed to supervise their units or provide direct oversight of the interrogation mission. This failure of leadership occurred at the 205th MI BDE level or below. It was not attributable to LTG Sanchez, who, in fact, acted properly as a strategic leader by communicating direction and guidance via the CJTF-7 interrogation policies. These policies ultimately required interrogations be conducted in accordance with the GCs. In hindsight, the policies could have been written in a more clear fashion. However, LTG Sanchez' decisions to promulgate interrogation policies in the absence of any other guidance, revise the policies when provided valid constructive concerns, and disseminate the policies to the senior MI CDR in the ITO for implementation, were appropriate and properly within his scope of responsibilities as a strategic leader. As such, his actions did not violate an Army standard.

(3) (U) The preponderance of the evidence indicated that LTG Sanchez did not improperly communicate interrogation policies.

SAIG (20-1b)(DIG 05-80001)

8. (U) Recommendations:

a. (U) Record the allegations against LTG Sanchez in the IN database as unsubstantiated.

b. (U) File this report as DIG 05-80001.

(b)(6)-2 & (b)(7)(C)-2

COL, IG
Chief, Preliminary Inquires

(b)(6)-2 & (b)(7)(C)-2

DAC, IG
Lead Investigator

SAIG (20-1b)(DIG 05-80001)

## LIST OF EXHIBITS

| EXHIBIT | ITEM |
|---|---|
| A | Allegation |
| B | Standards |
| B-1 | Article 92, UCMJ |
| B-2 | AR 600-100 |
| C | Documents |
| C-1 | AR 600-100 |
| C-2 | FM 101-5 |
| C-3 | FM 101-5-1 |
| C-4 | AR 600-20 |
| C-5 | GWOT memorandum, dated 16 April 2003 |
| C-6 | FRAGO 412 |
| C-7 | FRAGO 415 |
| C-8 | LTG Sanchez memorandum, dated 11 August 2003 |
| C-9 | FRAGO 749 |
| C-10 | Memorandum, dated 14 September 2003 |
| C-11 | Memorandum, dated 12 October 2003 |
| C-12 | FRAGO 1301 |
| C-13 | Ryder Report |
| C-14 | ICRC Working Paper |
| C-15 | FRAGO 1108 |
| C-16 | Response to ICRC, dated 24 December 2003 |
| C-17 | Memorandum of Admonishment |
| C-18 | COL Pappas Statement, dated 11 February 2004 |
| C-19 | Taguba Report |
| C-20 | COL Pappas Statement, dated 14 May 2004 |
| C-21 | MG Wojdakowski Statement, dated 17 May 2004 |
| C-22 | DAIG-ID Inspection Report |
| C-23 | Kern Report |
| C-24 | Fay Report |
| C-25 | Jones Report |
| C-26 | Schlesinger Report |
| C-27 | LTG Sanchez statement to DAIG, dated 26 October 2004 |
| C-28 | COL (b)(6)-2 & (b)(7)(C)-2 statement, dated 30 December 2004 |
| C-29 | PSI, dated 25 January 2005 |
| C-30 | Church Report |

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| | | |
|---|---|---|
| D | Testimony | |
| D-1 | BG [redacted] dated 15 February 2004 | FOIA: No |
| D-2 | BG [redacted] dated 18 July 2004 | FOIA: No |
| D-3 | MG Fay, dated 13 September 2004 | FOIA: Yes |
| D-4 | LTG Jones, dated 14 October 2004 | FOIA: Yes |
| D-5 | COL [redacted] dated 21 October 2004 | FOIA: No |
| D-6 | MG [redacted] dated 21 October 2004 | FOIA: No |
| D-7 | COL [redacted] dated 22 October 2004 | FOIA: Yes |
| D-8 | MG [redacted] dated 22 October 2004 | FOIA: No |
| D-9 | LTG [redacted] dated 27 October 2004 | FOIA: No |
| D-10 | MG [redacted] dated 29 October 2004 | FOIA: No |
| D-11 | MG [redacted] dated 9 November 2004 | FOIA: No |
| D-12 | GEN Kern, dated 24 November 2004 | FOIA: Yes |
| D-13 | MG [redacted] dated 29 October 2004 | FOIA: No |
| D-14 | GEN [redacted] dated 13 December 2004 | FOIA: No |
| D-15 | AMB Bremer, dated 21 December 2004 | FOIA: Yes |
| D-16 | LTG [redacted] dated 26 October 2004 | FOIA: No |

SAIG (20-1b)(DIG 05-80001)

## ANNEXES

ANNEX 1 - Standards

ANNEX 2 - Documents

ANNEX 3 - Testimony

ANNEX 4 - Discussion

# ANNEX 1

SAIG-IN (20-1b) ANNEX 1 (STANDARDS) to DIG 05-800001

1. (U) Article 92, Uniform Code of Military Justice (UCMJ), Manual for Courts-Martial (MCM), 2002 edition, stated dereliction in the performance of one's duties consisted of three elements:

(1) (U) A person had certain duties. A duty was imposed by treaty, statute, regulation, lawful order, standard operating procedure (SOP), or custom of the service.

(2) (U) The person knew or reasonably should have known of those duties. Actual knowledge of duties could be proved by circumstantial evidence. Actual knowledge did not need to be shown if the individual reasonably should have known of the duties. This could be shown by regulation, training or operating manuals, customs of the service, testimony of persons who held similar or superior positions, or similar evidence.

(3) (U) The person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission of a person who was under a duty to use due care which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse. (EXHIBIT B-1)

2. (U) AR 600-100, Army Leadership, dated 17 September 1993, stated in paragraph 2-1 that all leaders were responsible for effectively communicating vision, purpose, and direction. General officers at the strategic levels of the Army were responsible for creating policies, structures, and programs. They affected all members junior to them by formulating policies that supported and sustained Army values, and by ensuring that procedures developed at lower levels further supported Army policy and values. (EXHIBIT B-2)

# ANNEX 2

SAIG (20-1b) ANNEX 2 (DOCUMENTS) to DIG 05-80001

1. (U) AR 600-100, Army Leadership, dated 17 September 1993, stated:

a. (U) In paragraph 1-6, each organizational level of the Army required a different mix of leadership skills. Leadership at the lower levels was direct, face-to-face, and relatively short term in its outlook. As leaders ascended the organizational ladder, leadership tasks became more complex. Senior leaders had responsibility for large organizations or systems. They exercised leadership indirectly through staffs and subordinate leaders. As leaders moved into the most complex and highest levels of the Army, or became involved in the strategic arena, the ability to conceptualize and integrate became increasingly important. Leaders at that level focused on establishing the fundamental conditions to fight wars or conduct operations other than war.

b. (U) In paragraph 1-7, total Army leadership policy recognized three levels of leadership requirements: direct, senior and strategic. The direct level was the front-line or first level of leadership. It included leaders from the squad through battalion levels of tactical units. The senior level existed in more complex organizations, from the BDE through corps levels in tactical units. Senior leaders tailored resources to organizations and programs. The strategic level of leadership existed at the highest levels throughout the Army. It included leaders from the Field Army through national levels. Strategic leaders established structure, allocated resources, and articulated strategic vision. Skills required for effective leadership at this level included technical competence on force structure and integration, unified, joint, combined, and interagency operations, and management of complex systems.

c. (U) In paragraph 2-1, all leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further supported Army policy and values. (EXHIBIT C-1)

2. (U) Field Manual (FM) 101-5, Staff Organizations and Operations, dated 31 May 1997, stated:

a. (U) On page 1-1, command was the authority a CDR in military service lawfully exercised over subordinates by virtue of rank and assignment. Command included the authority and responsibility for effectively using available resources and for planning the employment of, organizing, directing, coordinating, and controlling military forces for the accomplishment of assigned missions.

b. (U) On page 4-1, when the CDR assigned a staff member a mission, he also delegated authority for the staff member to accomplish the mission. Having delegated the authority, the CDR had to provide the staff member with the guidance, resources, and support necessary to accomplish the mission.

c. (U) On page 4-2, the CofS was the CDR's principal assistant for directing, coordinating, supervising, and training the staff, except in the areas the CDR reserves. The CDR delegated executive management authority to the CofS.

d. (U) On page 4-10, the G-2 was the principal staff officer for all matters concerning MI, counter-intelligence, security operations, and MI training. MI involved collecting, processing, producing, and disseminating intelligence.

[IO Note: The C-2 was the equivalent of the G-2 at the CJTF-level.]

e. (U) On pages 4-12 through 4-14, the G-3 was the principal staff officer for all matters concerning training, operations and plans, and force development and modernization. The G-3 was responsible for staff planning and supervision of the Provost Marshal (PM). On page 4-27, the PM was the special staff officer responsible for coordinating MP assets and operations. The PM planned and supervised internment and resettlement operations, to include collection, detention and internment, protection, sustainment, and evacuation of enemy prisoners of war and civilian internees. (EXHIBIT C-2)

[IO Note: The C-3 was the equivalent of the G-3 at the CJTF-level.]

3. (U) FM 101-5-1, Operational Terms and Graphics, dated 30 September 1997, stated in Chapter 1 that the term TACON was defined as the detailed and local direction and control of movements necessary to accomplish missions or tasks assigned. TACON allowed CDRs below combatant command level to apply force and direct the tactical use of logistics assets, but did not provide authority to change organizational structure or direct administrative or logistical support. (EXHIBIT C-3)

4. (U) AR 600-20, Army Command Policy, dated 13 May 2002, stated in paragraph 2-1, the chain of command assisted CDRs at all levels to achieve their primary function of accomplishing the unit's assigned mission. CDRs were responsible for everything their command did or failed to do. However, CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. In this way, a proper degree of responsibility became inherent in each command echelon. CDRs delegated sufficient authority to Soldiers in the chain of command to accomplish their assigned duties, and CDRs could hold these Soldiers

responsible for their actions. The need for a CDR or staff officer to observe proper channels in issuing instructions or orders had to be recognized. (EXHIBIT C-4)

5. (U) In a memorandum for the CDR, USSOUTHCOM, dated 16 April 2003, Counter-Resistance Techniques in the War on Terrorism, the SecDef approved 24 counter-resistance techniques limited to the interrogation of unlawful combatants held at GTMO. It was reiterated that US Armed Forces would continue to treat detainees humanely, and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the GCs. If the techniques of Incentive/Removal of Incentive, Pride and Ego Down, Mutt and Jeff, and Isolation were intended to be used, prior notification of the SecDef was required. If additional interrogation techniques were required for a particular detainee, a written request to the SecDef was required. (EXHIBIT C-5)

[IO note: This memorandum was commonly referred to as the Global War on Terrorism (GWOT) memorandum.]

6. (U) CJTF-7 FRAGO 412, dated 15 July 2003, AGP Complex Protection, indicated that AGP received attacks over the previous seven days. The unit responsible for running AGP lacked equipment and Soldiers to adequately prevent, respond to, or repel attacks, and defeat and destroy terrorists conducting the attacks. A unit was directed to provide external security patrols. (EXHIBIT C-6)

7. (U) CJTF-7 FRAGO 415, dated 15 July 2003, provided guidance on procedures for the detention, investigation, and release of detainees.

a. (U) The FRAGO stated that units apprehending persons suspected of criminals would ensure that physical evidence was preserved and forwarded with the suspect to AGP. Detainees would be treated by all coalition forces with personal dignity and in accordance with international humanitarian law. CDRs were responsible for continually training their units on the Soldier's Code of Conduct and its strict enforcement.

b. (U) At AGP, all detainees would be treated with dignity and respect for their persons and property. Units responsible for detention operations would follow applicable international law concerning humanitarian treatment of prisoners, and were responsible for training their Soldiers on the Code of Conduct and its strict enforcement. Detention officials would handle all prisoners with the minimum force necessary.

c. (U) All coalition units were responsible for conducting unit level training on the Code of Conduct and its strict enforcement. Training included proper treatment of those apprehended for suspected criminal activity IAW international humanitarian law. The

800th MP BDE would forward the FRAGO to all detention facilities under its control, and conduct training on graduated force and standards of conduct by MPs. (EXHIBIT C-7)

8. (U) In a memorandum for the CDR, CENTCOM, dated 11 August 2003, LTG Sanchez requested a team of subject matter experts to assess and make specific recommendations concerning detention and interrogation operations in Iraq. The team needed to be prepared to make recommendations and identify the resources needed to ensure detainees were held and processed in accordance with US and international law. CJTF-7 needed expertise and assistance in several areas, to include detainee management, detainee databases and records, interrogation prioritization and management, integration of military detention and corrections operations with the CPA, and means of command and control of the detention and corrections system. (EXHIBIT C-8)

9. (U) CJTF-7 FRAGO 749, dated 24 August 2003, reflected that the order consolidated prior detainee orders and guidance and controlled detention and processing of all civilian internees and EPWs. The FRAGO defined the different classes of prisoners and the processes utilized by the capturing and detaining units. Once detained or interned by coalition forces, persons would be treated in accordance with international and humanitarian law. Units responsible for Detention/Internment Operations would follow applicable international law concerning humanitarian treatment of prisoners and be responsible for training their units in the Soldier's code of conduct and its strict enforcement. Detention officials would handle all prisoners with the minimum force necessary as required by the situation. (EXHIBIT C-9)

10. (U) A memorandum for the C-2, CJTF-7; the C-3, CJTF-7; and the CDR, 205th MI BDE, dated 14 September 2003, prescribed interrogation techniques authorized for CJTF-7. Several techniques required LTG Sanchez' approval before use. Use of any interrogation technique not specifically listed required approval by LTG Sanchez after review by the C-2 and SJA. Implementation guidelines were to be provided by the CDR, 205th MI BDE. Multiple safeguards for the execution of interrogation operations were included. Interrogator training, interrogation plans, and supervision were required. (EXHIBIT C-10)

11. (U) A memorandum for the C-2, CJTF-7; the C-3, CJTF-7; and the CDR, 205th MI BDE, dated 12 October 2003, prescribed updated interrogation techniques authorized for CJTF-7. Use of the techniques was limited to a specific category of detainees. Guidance was provided regarding segregation of security detainees. Use of any interrogation technique not specifically listed required approval by LTG Sanchez after review by the C-2 and SJA. Multiple safeguards for the execution of interrogation

operations were included. Interrogator training, interrogation plans, and supervision were required. (EXHIBIT C-11)

12. (U) CJTF-7 FRAGO 1301, 1st AD Provides One MP Platoon to AGP, dated 31 December 2003, directed 1st AD to provide an MP platoon to AGP to provide security. (EXHIBIT C-12)

13. (U) The Ryder Report, dated 5 November 2003, stated:

a. (U) Coalition Forces were detaining enemy prisoners of war (EPWs) and civilian internees (both security and criminal detainees) in accordance with DOD Directives and accepted US and international practices. Generally, conditions in existing prisons, detention facilities and jails met minimal standards of health, sanitation, security, and human rights established by the Geneva Conventions (GCs). There was "room for continued improvement" in all areas.

b. (U) The major themes of the assessment were consolidation, separation, standardization, enable the CPA Ministry of Justice Prisons Department, and enable decentralized execution/initiative. The management of multiple disparate groups of detained persons in a single location by members of the same unit invited confusion about handling, processing, and treatment, and typically facilitated the transfer of information between different categories of detainees.

c. (U) There was wide variance in standards and approaches at the various detention facilities. Several had flawed or insufficiently detailed use of force and other SOPs or policies (improper restraint techniques). "However, it should also be noted that the assessment team members did not identify any [MP] units purposely applying inappropriate confinement practices." There was a "significant paradigm shift" in standard EPW/detainee operations doctrine, as applied to post-hostilities detention of security internees, let alone the reconstruction of the Iraqi prison system.

d. (U) Since the transfer of authority on 15 June 2003, between CFLCC and CJTF-7, the 800th MP BDE, a theater asset, was tasked to expand from its previous standard EPW operations, to add detention of security internees, high-value detainees, criminal detainees, and support the establishment of Iraqi jails and prisons throughout Iraq. The 800th MP BDE units were generally under strength, since Reserve Component (RC) units did not have an individual replacement system to mitigate medical losses or the departure of Soldiers who reached 22 months of Federal active duty. The 800th MP BDE had a "clear and logical plan" to realign its remaining battalion and company-sized units to meet its mission requirements. (EXHIBIT C-13) b(3)

[IO Note: The (b)(6)-2 & (b)(7)(C)-2 was LTC (b)(6)-2 & (b)(7)(C)-2 115th MP BN, 800th MP BDE.]

b(3)

15. (U) CJTF-7 Fragmentary Order (FRAGO) 1108, dated 19 November 2003, indicated that the CDR, 205th MI BDE, assumed responsibility for the Baghdad Central Confinement Facility (AGP) and was appointed as the Forward Operating Base (FOB) CDR. Units at AGP were TACON to the CDR, 205th MI BDE, for security of detainees and for force protection. (EXHIBIT C-15)

b(3)

b(3) [redacted]

17. (U) In a memorandum of admonishment for BG Karpinski, dated 17 January 2004, LTG Sanchez stated that the 800th MP BDE continued to perform in a manner that did not meet the standards of the Army or CJTF-7. In the past few months, incidents occurred that reflected a lack of clear standards, proficiency and leadership within the BDE. He held her responsible for these deficiencies. The reported detainee abuse at AGP was the most recent example of a poor leadership climate that permeated the BDE. He admonished her to take charge of the BDE and take corrective actions necessary to set and enforce standards. A copy was furnished to MG Wojdakowski. (EXHIBIT C-17)

18. (U) In a statement for the Taguba Report, dated 11 February 2004, COL Pappas stated:

a. (U) He was interviewed by MG Taguba on 9 February 2004 concerning detainee operations and allegations of detainee abuse at AGP.

b. (U) Command and control at the Abu Ghraib FOB was a "complex intermingling" of four distinct tasks under the command of the 205th MI BDE and the 800th MP BDE. The tasks included detention operations, operational and strategic interrogation operations, providing assistance to the Iraqi Bureau of Prisons, and enhancing force protection for the occupants of the FOB. The 320th MP BN was charged with executing detention operations. The SJA, CJTF-7, had the lead in facilitating ICRC visits. The JIDC, through the 205th MI BDE, was charged with executing interrogations.

c. (U) The three basic components of detainee operations were detention, interrogation, and release. Staff supervision of these three functions was provided by the PM, the C-2, and the SJA, respectively. This split responsibility for detainee operations increased the pressure at lower levels and blurred lines of responsibility.

d. (U) The basic rules for interrogations were contained in FM 34-52, Interrogation Operations. The standards for conduct of interrogations were outlined in CJTF-7 policy memorandums.

e. (U) Despite the articulation of clear rules, two instances of violations of these standards occurred and were brought to his attention prior to him assuming command of the FOB. He directed punitive action in one case, and removed the interrogator from interrogations in the second case. After these incidents, the leadership at the JIDC implemented a more aggressive policy of ensuring personnel understood the limitations of the interrogation process.

f. (U) Despite a genuine commitment on the part of senior leaders at BDE-level, there was some friction between the 320th MP BN and the JIDC. There were significant differences in standards between the two units.

g. (U) In the future, he recommended that if detainee operations were put under the purview of one CDR at AGP, that person should have training in detention operations, interrogation operations, and detainee release procedures. The level of responsibility probably necessitated a GO. (EXHIBIT C-18)

19. (U) The Taguba Report, dated 26 February 2004, stated:

a. (U) LTG Sanchez' request to investigate the 800th MP BDE followed the initiation of a criminal investigation by the US Army Criminal Investigation Command (USCIC) into specific allegations of detainee abuse committed by members of the 372d MP Company, 320th MP BN.

b. (U) CJTF-7 had several reports of detainee escapes from coalition confinement facilities over several months in 2003. These included Camp Bucca, Camp Ashraf, AGP, and the High Value Detainee (HVD) Complex/Camp Cropper. The 800th MP BDE operated these facilities. In addition, four Soldiers from the 320th MP BN were charged under the UCMJ with detainee abuse at Camp Bucca in May 2003.

c. (U) A single CDR in CJTF-7 should be responsible for overall detainee operations throughout the ITO. The C-3, CJTF7, should be appointed as the staff proponent for detainee operations in the ITO.

d. (U) There was a general lack of knowledge, implementation, and emphasis on basic legal, regulatory, doctrinal, and command requirements in the 800th MP BDE and its units.

e. (U) The 800th MP BDE was under strength for the mission for which it was tasked. BG Karpinski did a poor job allocating resources throughout Iraq. AGP normally housed between 6000 and 7000 detainees, yet was operated by one BN. On the other hand, the HVD facility maintained only 100 detainees, yet was also run by an entire BN. The 800th MP BDE suffered from personnel shortages due to releases from active duty (REFRADs), medical evacuation, and demobilization. In addition, the quality of life for the Soldiers was extremely poor. There were numerous mortar attacks and random rifle and rocket propelled grenade (RPG) attacks, which were a serious threat to Soldiers and detainees at the facility. AGP was severely over crowded, and the BDE lacked adequate resources and personnel to resolve serious logistics problems.

f. (U) There was clear friction and lack of communication between COL Pappas and BG Karpinski. COL Pappas controlled the FOB at AGP after 19 November 2003, and BG Karpinski controlled detainee operations inside the prison. "There was no clear delineation of responsibility between commands, little coordination at the command level, and no integration of the two functions." Coordination occurred at the lowest levels with little oversight by the CDRs.

g. (U) This ambiguous relationship was exacerbated by the CJTF-7 fragmentary order (FRAGO) 1108, issued on 19 November 2003, placing the units at AGP TACON to the CDR, 205th MI BDE, for security of detainees and force protection. The FRAGO was not supported by BG Karpinski. The FRAGO effectively made an MI officer responsible for the MPs conducting detainee operations at the facility. This was not doctrinally sound.

h. (U) BG Karpinski was extremely emotional during her testimony with MG Taguba. She was unwilling to either understand or accept that many of the problems inherent in the 800th MP BDE were caused by poor leadership and the refusal of her command to establish and enforce basic standards and principles among its Soldiers. She alleged she received no help from the Civil Affairs command. She blamed much of the abuse at AGP on MI personnel, and asserted that MI personnel gave the MPs "ideas" that led to detainee abuse.

i. (U) BG Karpinski should be relieved from command and be given a general officer memorandum of reprimand (GOMOR) for failing to ensure that her Soldiers had appropriate standard operating procedures (SOPs) for dealing with detainees, and for failing to ensure that her Soldiers knew, understood, and adhered to the protections afforded by the GCs relative to the treatment of prisoners of war, among other reasons.

j. (U) COL Pappas should be given a GOMOR and be investigated in accordance with AR 381-10 for failing to ensure his Soldiers were properly trained and followed the interrogation rules of engagement (IROE); failing to ensure his Soldiers knew, understood, and adhered to the protections afforded by the GCs relative to the treatment of prisoners of war; and for failing to properly supervise his Soldiers at AGP. (EXHIBIT C-19)

20. (U) In a statement for the Fay Report, dated 14 May 2004, COL Pappas stated:

a. (U) His rater was MG Wojdakowski, and his senior rater was LTG Sanchez. He provided an Officer Evaluation Report (OER) support form to MG Wojdakowski within the first one or two weeks of his command, and they discussed the support form.

b. (U) The 205th MI BDE had numerous intelligence collection activities ongoing in support of CJTF-7's mission. The BDE's focus was primarily on HUMINT. The BDE was also heavily involved in the Mujahadeen el Kalq (MeK) mission.

c. (U) The BDE no longer had organic interrogation assets; however, they had three battalions task organized to the BDE that had interrogation capability.

d. (U) AGP was a "decrepit Prison". There were "significant" force protection concerns and a lack of standards being enforced by the MP BN.

e. (U) Interrogation operations were not as successful as LTG Sanchez hoped. The C-2 informed the 205th MI BDE that LTG Sanchez was not happy with the quality of the reporting.

f. (U) He (COL Pappas) believed there was pressure from DOD to produce actionable intelligence from the security detainees that CJTF-7 was capturing. He based that assessment on the discussions he had with the C-2 staff and the "tremendous amount of interest" that they were receiving.

g. (U) Although technically the JIDC was a joint operation, its JMD remained unfilled throughout his tour in Iraq. The JIDC was essentially an Army-run operation. The decision was made to use civilians as interrogators because the BDE had no more assets to fill the slots. His S-3 and Deputy CDR worked with CJTF-7 HQs in developing the specific requirements for civilian interrogators.

h. (U) In November 2003, LTG Sanchez visited AGP, and was not happy with the operations. He (COL Pappas) decided to move to AGP. Shortly thereafter, he was named as the CDR of the AGP FOB, and became responsible for force protection. This meant he was responsible for protecting all personnel from external threats. It meant that the MPs would continue to run confinement and security operations, while the JIDC continued to perform interrogations. The 19 November 2003 FRAGO did nothing to alter the mission of the MPs to maintain control of the detention facilities at AGP. As a result of the 19 November 2003 FRAGO, he became more involved with base operations at AGP.

b(3) [redacted]

j. (U) A more "rigid inspection of operations, less confidence in civilians working interrogations, and closer attention to the ICRC report of abuse" may have enabled earlier detection of the abuse. The difficult conditions at AGP, the lack of established doctrine and training for JIDCs, as well as the Army's decision to move interrogators into the RC after Operation Desert Storm were contributory factors. (EXHIBIT C-20)

[IO Note: On 3 December 2004, (b)(6)-2 & (b)(7)(C)-2 [redacted] (b)(6)-2 & (b)(7)(C)-2 [redacted]

21. (U) In a sworn statement for the Kern Report, dated 17 May 2004, MG Wojdakowski stated:

a. (U) In July 2003, he directed the CG, 800th MP BDE, to move the HQs from Kuwait to Iraq so that the CG, CJTF-7, and CJTF-7 staff could better supervise the BDE and build the BDE into the CJTF-7 team. Since the 800th MP BDE was TACON to CJTF-7, CJTF-7's degree of oversight of the BDE was command authority over forces available for tasking, limited to the detailed and local direction and control of movements necessary to accomplish assigned missions.

b. (U) He kept abreast of all the SEP BDEs in CJTF-7 by holding a Tactical Satellite (TACSAT) update three days per week, but BG Karpinski rarely participated.

c. (U) As the DCG, CJTF-7, he was responsible for overseeing logistical support for all facilities in Iraq, and he dealt with AGP extensively in that capacity. Since AGP was a key facility, CJTF-7 allocated a lot of resources to the site. BG Karpinski always came to him when she needed support. To assist her, he directed that she work through the C-4, CJTF-7, and the rest of the staff to get the resources she needed. The staff worked through a host of issues with supporting AGP and other facilities.

d. (U) CJTF-7 needed a central facility to hold and screen detainees. In addition, CJTF-7 needed to consolidate its scarce detainee operations resources. Consolidating detainee operations at AGP helped them focus resources on that facility and FOB. Some resources were pulled from other detention camps to support AGP.

e. (U) LTG Sanchez was concerned and had great expectations for interrogation operations, and he (MG Wojdakowski) and the staff all participated in improving this part of the intelligence process. LTG Sanchez gave explicit instructions to treat all detainees humanely.

f. (U) They were aware they had challenges with the detainee system, and CJTF-7 requested assistance from various places through CENTCOM and the Army. They requested more interrogators, interpreters, and HUMINT support.

g. (U) COL Pappas never came to him (MG Wojdakowski) and told him he (COL Pappas) could not do his job due to personnel shortages, but they continuously worked on using personnel in the best possible way. BG Karpinski did complain to him about personnel shortages, and they redistributed personnel within CJTF-7 to address her concerns.

h. (U) No one in the CJTF-7 Command Group condoned or encouraged the mistreatment of detainees. The Command Group quickly and forcefully investigated any and all suspected violations of detainees' rights. (EXHIBIT C-21)

22. (U) The DAIG Inspection Report, dated 21 July 2004, stated:

a. (U) On 10 February 2004, the Acting SECARMY directed DAIG to conduct an assessment of detainee operations in Afghanistan and Iraq. DAIG inspected internment, EPW, detention operations, and interrogation procedures. The inspection focused on the adequacy of doctrine, organization, training, materiel, leadership, personnel, and facilities. It was a functional analysis of the Army's conduct of detainee and interrogation operations.

b. (U) Two teams conducted inspections at 26 locations in Iraq, Afghanistan, and in the US. They were unable to identify system failures that resulted in incidents of abuse. These incidents resulted from the failure of individuals to follow known standards of discipline and Army values, and in some cases, the failure of a few leaders to enforce those standards of discipline.

c. (U) Of all the facilities inspected, only AGP was determined to be undesirable for housing detainees because it was located near a densely populated urban area, on a dangerous main supply route (MSR), and was under frequent hostile fire, placing Soldiers and detainees at risk.

d. (U) Officially approved CJTF-7 policies generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained Soldiers, under the full range of safeguards. However, policies were not clear and contained ambiguities. Implementation, training, and oversight of these policies was inconsistent; however, no confirmed instance of detainee abuse was caused by the approved policies. There was no direct link between the proper use of an approved approach technique and a confirmed case of detainee abuse.

e. (U) They were unable to identify system failures that resulted in incidents of abuse.

f. (U) Doctrine did not clearly identify the interdependent, and yet independent, roles, missions, and responsibilities of MP and MI units in the establishment and operation of interrogation facilities. MP doctrine did not address approved and prohibited MI procedures in an MP-operated compound, nor clearly establish the role of MPs in the interrogation process. MI doctrine did not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 35-52, Intelligence Interrogation, dated 28 September 1992, implied an active role for MPs in the interrogation process. The subordination of the MP custody and control mission to the MI for intelligence could create settings in which unsanctioned behavior, including detainee abuse, could occur.

g. (U) Shortfalls in interrogators and interpreters, and the distribution of these assets, hampered Human Intelligence (HUMINT) collection efforts. Valuable intelligence may have been lost as a result. (EXHIBIT C-22)

23. (U) The Kern Report, dated 23 August 2004, stated:

a. (U) The October 2003 interrogation policy memorandum confused doctrine and policy even further. FM 34-52 was quoted as stating "the interrogator should appear to be the one who controls all aspects of the interrogation..." The policy removed interrogation approaches that were in the first letter, and "muddied" another. There was no clear distinction at AGP between segregation and isolation. A confusing change involved the use of dogs. (pp. 27-28)

b. (U) Iraq became a HUMINT-focused environment in support of SASO with interrogation operations becoming increasingly critical. Beginning in July 2003, demands placed on interrogation operations were growing rapidly. The 205th MI BDE was responsible for providing tactical HUMINT teams to forward-deployed combat forces, as well as operating a Joint Interrogation and Debriefing Center (JIDC). (p. 32)

c. (U) The 205th MI BDE had no organic interrogation capability. The BDE received interrogation sections from many different units across the Army and USAR. As COL Pappas focused his efforts on interrogation operations, all he had were disparate elements of units and individuals, to include civilians that had never trained together. In contrast, the ISG interrogation operations of HVDs had no such shortages. These much needed resources were unavailable for support of critical CJTF-7 mission needs. (p. 32)

d. (U) The CPA made the initial decision to use AGP as a criminal detention facility in May 2003. (p. 33)

e. (U) Overcrowding at AGP was exacerbated by the transfer of detainees from Camp Bucca to AGP. The physical plant was inadequate in size and the construction and renovations that were underway were incomplete. Scarcity of resources, both personnel and equipment, to conduct effective confinement or interrogation operations made the situation worse. (p. 37)

f. (U) Force protection was a major issue at AGP. BG Karpinski recognized AGP's vulnerabilities and raised these concerns frequently to MG Wojdakowski and LTG Sanchez. LTG Sanchez was equally concerned about AGP's vulnerabilities and the lack of progress in establishing "even rudimentary" force protection measures. He directed the CG, 82d Airborne Division, to meet with AGP officers concerning their issues. In an effort to improve force protection, LTG Sanchez appointed COL Pappas as the FOB CDR. COL Pappas devoted "considerable energy" to improving security. (p. 38)

g. (U) On 16 November 2003, COL Pappas took up full time residence at AGP. FRAGO 1108 was pointed to and looked upon by many as a significant change and was a major factor in allowing the abuses to occur. It was not. "The abuses and the environment for them began long before FRAGO 1108 was ever issued." "TACON" was interpreted to mean that COL Pappas took over the running of the prison, but COL Pappas never took over those functions. MG Wojdakowski, COL Pappas' rater, stated that COL Pappas was never given responsibility for running the prison, but that the MPs retained that responsibility. It appeared that BG Karpinski was the only person among the Army leadership involved who interpreted the FRAGO differently. (pp. 55-56)

h. (U) The ICRC's allegations of abuse at AGP were not believed, nor were they adequately investigated. During their visits to AGP in October 2003, the [redacted] In November 2003, the Office of the Staff Judge Advocate (OSJA), CJTF-7, received a report from the ICRC regarding these visits. An Australian attorney from the OSJA was sent to AGP to help draft a response. BG Karpinski signed the response letter to the ICRC on 24 December 2003. (pp. 64-66)

i. (U) The letter tended to "gloss over, close to the point of denying the inhumane treatment, humiliation, and abuse identified by the ICRC." COL Marc Warren, SJA, CJTF-7, stated when he saw the ICRC report, he couldn't believe it. COL Warren regretted not taking the ICRC report to LTG Sanchez or MG Wojdakowski. (pp. 67-68)

j. (U) There was a lack of clear command and control of detainee operations at the CJTF-7 level. Although MG Wojdakowski was COL Pappas' rater, MG Wojdakowski was not directly involved with interrogation operations. Most of COL Pappas' direction came from LTG Sanchez and MG Barbara Fast, C-2, CJTF-7. BG Karpinski was rated by the CG, 377th TSC. She testified that she believed her rater was MG Wojdakowski, and she received her direction from him the entire time she was in Iraq. "Overall responsibility for detention operations never came together under one person short of LTG Sanchez himself until the assignment of MG G. Miller in April 2004." There should be a single authority designated for command and control of interrogation and detention operations in CJTF-7. (pp. 109-110)

[IO Note: MG G. Miller's assignment in CJTF-7 was as the DCG for Detainee Operations.]

k. (U) Leaders failed to take steps to effectively manage pressure placed upon the JIDC personnel. Leaders within the MI community commented on the intense pressure they felt from higher HQs, to include CENTCOM and the Pentagon, for timelier intelligence. These leaders indicated that this pressure adversely affected their decision making. (pp. 111-112)

l. (U) There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits. ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. Neither the leadership (at AGP) nor CJTF-7 made any attempt to verify the ICRC's allegations. (p. 119)

m. (U) COL Pappas failed to properly communicate to higher HQs when his BDE would be unable to accomplish its mission due to lack of manpower and resources. He failed to emplace the necessary checks and balances to prevent and detect abuses. He allowed his Soldiers and civilians at the JIDC to be subjected to inordinate pressure from higher HQs. (p. 120) (EXHIBIT C-23)

24. (U) The Fay Report, dated 23 August 2004, stated:

a. (U) As the need for actionable intelligence rose, CJTF-7 HQs realized the pre-war planning had not included planning for detainee operations. Believing FM 34-52 was not sufficiently or doctrinally clear for the situation in Iraq, the CJTF-7 staff sought to synchronize detainee operations, which resulted in a methodology and structure derived from the JTF-GTMO system as presented by MG G. Miller. LTG Sanchez directed that an interrogation policy be established that addressed permissible techniques and safeguards for interrogators for use in Iraq. The CJTF-7 staff relied on a series of SOPs provided by MG G. Miller to develop not only the structure, but also the interrogation policies. (pp. 24-25)

b. (U) On 10 September 2003, CPT (b)(6)-2 & (b)(7)(C)-2 SJA, 205th MI BDE, was tasked by COL Warren to work with the OSJA staff to develop a set of interrogation rules. The OSJA identified interrogation techniques from the 16 April 2003 GWOT memorandum. The GWOT memorandum techniques were copied almost verbatim into the first draft of the CJTF-7 interrogation policy. The draft was staffed with members of the 205th MI BDE assigned to the 519th MI BN, who added the use of dogs, stress positions, sleep management, sensory deprivation, and yelling and loud music. The draft was also sent to the offices of the C-2, C-3, and the CDR, 205th MI, for staffing. (p. 25)

c. (U) The 12 October 2003 policy significantly changed the tone and substance of the previous policy. It removed any approaches not listed in the 1987 edition of FM 34-52. The policy acknowledged the applicability of the GCs and the duty to treat all detainees humanely, and also cited Articles 5 and 78 noting specifically that detainees engaged in activities hostile to the security of coalition forces forfeited their rights of communications. The policy specified that it was for use on civilian security detainees. (p. 26)

d. (U) By mid-October, interrogation policy in Iraq had changed three times in less than 30 days. Various versions of the drafts were circulated among AGP, the

205th MI BDE, the C-2 staff, and the SJA. Anecdotal evidence suggested that personnel were confused about the approved policy from as early as 14 September 2003. It was not always clear to JIDC officers what approaches required LTG Sanchez' approval, nor was the level of approval consistent with requirements in other commands. The October 2003 JIDC SOP failed to mention details concerning the interrogation policies, approval requirements or procedures. Interrogators, with their leaders' knowledge, routinely utilized approaches/techniques without obtaining the required authority, indicating confusion. (pp. 28-29)

e. (U) Abusing detainees with dogs started almost immediately after the arrival of working dogs on 20 November 2003. By then, abuses of detainees were already occurring, and the addition of dogs was just one more abuse device. Dog teams were brought to AGP as a result of recommendations from MG G. Miller, who recommended the dogs as beneficial for detainee custody and control issues. MG G. Miller never recommended the use of dogs during interrogations, nor were dogs used for interrogations at GTMO. The dogs were requested by COL Pappas, who never understood the intent as described by MG G. Miller. (p. 83) (EXHIBIT C-24)

25. (U) The Jones Report, dated 23 August 2004, stated:

a. (U) From the time V Corps transitioned to become CJTF-7, and throughout the period under investigation, it was not resourced properly to accomplish its missions. CJTF-7 HQs lacked adequate personnel and equipment. The MP and MI units at AGP were severely under-resourced. CJTF-7's support to the CPA required greater resources than envisioned in operational plans. Prior operational plans envisioned CJTF-7 conducting SASO and providing support to the CPA in a relatively benign environment. "In fact, opposition was robust and hostilities continued throughout the period under investigation. CJTF-7 had to conduct tactical counter-insurgency operations while executing its planned missions. These circumstances delayed establishment of an intelligence architecture and degraded the ability of the CJTF-7 to execute its assigned tasks, to include oversight of interrogation and detention operations at AGP. (pp. 3-4)

b. (U) The chain of command immediately above the 205th MI BDE was not directly involved in the abuses at AGP. However, the policy memoranda issued by the CG, CJTF-7, led indirectly to some of the non-violent and non-sexual abuses. Additionally, the CG, CJTF-7, and DCG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations. CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. (p. 4)

c. (U) CJTF-7 command and staff actions and inaction must be understood in the context of the operational environment. In light of the operational environment and the fact that the CJTF-7 staff and units were under-resourced for their missions, the CDR, CJTF-7 had to prioritize efforts. As such, CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, "thereby saving Coalition and Iraqi lives and assisting in the transition to Iraqi self-rule." The CG, CJTF-7, and his staff performed above expectations in the overall scheme of OIF. (p. 5)

d. (U) No policy, directive, or doctrine directly or indirectly caused violent or sexual abuses. The Soldiers involved knew they were violating approved techniques and procedures. (p. 5)

e. (U) Leaders at AGP failed to supervise their units or provide direct oversight of the interrogation mission. The absence of effective leadership was a factor in not sooner discovering and taking action to prevent the abuse incidents. (p. 5)

f. (U) The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership. No attempt was made by CJTF-7 or ARCENT to change this relationship. (p. 9)

g. (U) As major counter-insurgency operations began in July 2003, the demands on the CDR, CJTF-7 and his staff; the CPA; subordinate units, and the Iraqi interim government increased dramatically. Decisions were made to keep some units in Iraq to continue fighting the insurgency. Pressure increased to obtain operational intelligence. The complexity of missions conducted by CJTF-7 increased and placed a high demand on leadership at all levels. A rapid increase in the number of detainees due to the apprehension of counter-insurgents demanded a decision on a detention facility and a need to rapidly expand interrogation operations. (pp. 9-10)

h. (U) The effort to expand the intelligence organization, obtain operational intelligence about the counter-insurgency, and support the CPA "consumed" the CJTF-7 staff. Responsibilities for oversight of tactical interrogation procedures, intelligence analysis, and reporting at AGP were entrusted to CDRs in the field. (p. 11)

i. (U) Assistance was requested by CJTF-7 to help inform the leadership on proper procedures, techniques, and changes needed for success. (p. 11)

[IO Note: The CJTF-7 requests for assistance resulted in the visit by MG Ryder and MG G. Miller.]

j. (U) In retrospect, indications and warnings surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in handling detainees from point of capture through the central collection facilities, to include AGP. Examples included an incident involving detainee abuse at Camp Cropper; ICRC reports on handling detainees; ICRC reports on AGP detainee conditions and treatment; CID investigations and disciplinary actions taken by CDRs; death of an Other Governmental Agency (OGA) detainee at AGP; lack of adequate system for identification and accountability of detainees; DIV CDR concerns that intelligence information was not returning to the tactical level once detainees were evacuated to central holding facility. LTG Sanchez recognized the need to place emphasis on the proper handling of detainees and the proper handling of the Iraqi people. In October and December 2003, CJTF-7 published two policy memorandums entitled "Proper Treatment of the Iraqi People During Combat Operations" and "Dignity and Respect While Conducting Operations." Reports from MG G. Miller and MG Ryder confirmed LTG Sanchez' instincts that action was needed to improve procedures and set the conditions for success in intelligence and detention operations. (p. 12)

k. (U) It needed to be emphasized that the 180,000 US and coalition forces in CJTF-7 were prosecuting a complex counter-insurgency operation in a "tremendously horrid environment", and were performing "above all expectations." Leaders and Soldiers confronted "a faceless enemy whose hatred of the US knew no limits." The actions of a few undisciplined Soldiers at AGP overshadowed the "selfless service demonstrated every day" by the vast majority of the Soldiers on the battlefield. The Nation owed a "debt of gratitude" to the Service Members who served in harm's way every day. (p. 12)

l. (U) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. Staff responsibility for detention operations was vested in the C-3, CJTF-7, with further delegation to the PM. MG Wojdakowski established priorities of work for the C-4 and logistics support for facilities. He had direct oversight and responsibility for the SEP BDEs assigned or TACON to CJTF-7. Priorities for intelligence collection, analysis, and fusion rested with the C-2. LTG Sanchez used his SJA to advise him on the limits of authority and compliance with the GCs for the published interrogation policy memorandums. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. (p. 14)

m. (U) No organization or individual higher than the 205th MI BDE was directly involved in the questionable activities regarding the alleged detainee abuse at AGP.

However, CJTF-7 leaders and staff actions contributed indirectly to the questionable activities. (p. 16)

n. (U) Misinterpretation of CJTF-7 policy memorandums led to some of the abuses at AGP, but did not contribute to the violent or sexual abuses. (p. 16)

o. (U) Inaction at the CJTF-7 staff level may have also contributed to the failure to discover and prevent abuses before January 2004. There was sufficient evidence to believe that personnel in the OSJA and C-2X had knowledge of potential abuses and misconduct in violation of the GCs at AGP, and this knowledge was not presented to the CJTF-7 leadership. Had the pace of combat operations and support to the CPA not been so overwhelming, the CJTF-7 staff may have been able to provide additional oversight to interrogation operations at AGP. LTG Sanchez and MG Wojdakowski relied on BG Karpinski and COL Pappas to run detention and interrogation operations at AGP. In light of all the circumstances, the CJTF-7 staff did everything they could have reasonably been expected to do to successfully complete all their assigned missions. (p. 17)

p. (U) The leaders from the 205th MI BDE and 800th MP BDE at AGP failed to supervise their subordinates, failed to provide mission-specific training to their Soldiers; and failed to properly discipline their Soldiers. (p. 17)

q. (U) COL Pappas did not specifically assign responsibility for interrogation operations to a subordinate MI unit at AGP, and did not ensure that a chain of command for the interrogation operations mission was established at AGP. (p. 17)

r. (U) V Corps personnel, to include CDRs and staff, were not trained to execute a JTF mission. The transition from major combat operations to SASO and support to the CPA was a major transition which the unit did not have time to train or prepare. (p. 22)

s. (U) The conditions at AGP were representative of the conditions found throughout Iraq during post-Phase III operations. (p. 23)

t. (U) Policy memoranda promulgated by CDR, CJTF-7, led indirectly to some of the non-violent and non-sexual abuses. (p. 4)

u. (U) LTG Sanchez re-emphasized the limits of authority for interrogations in his memorandums dated 14 September 2003 and 12 October 2003. The first was rescinded, and the second addressed only security detainees and, inadvertently, left certain issues for interpretation: responsibility for clothing detainees; use of dogs in interrogation; and applicability of techniques to detainees who were not categorized as "security detainees." (p. 15) (EXHIBIT C-25)

26. (U) The Schlesinger Report, dated 24 August 2004, stated:

a. (U) The events of October 2003 through December 2003 on the night shift of Tier 1 at AGP were acts of brutality and "purposeless sadism." They represented deviant behavior and a failure of military leadership and discipline. There was no evidence of a policy of abuse promulgated by senior officials or military authorities. There was both institutional and personal responsibility at higher levels. (p. 5)

b. (U) Interrogators and lists of techniques circulated from GTMO and Afghanistan to Iraq. Techniques that were effective under carefully controlled conditions at GTMO became more problematic when they migrated and were not adequately safeguarded. The policy memoranda promulgated at the CJTF-7 level allowed for the interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (pp. 9-10)

c. (U) Of the 17 detention facilities in Iraq, the largest was AGP which housed up to 7,000 detainees in October 2003 with a guard force of about 90 personnel from the 800th MP BDE. AGP was seriously overcrowded, under-resourced, and under continual attack. (p. 11)

d. (U) The 205th MI BDE had insufficient interrogator and interpreter resources to provide the kind of support needed by CJTF-7. Additional units were mobilized to fill the gaps. Unit cohesion was lacking because elements of six different units were assigned to the interrogation mission at AGP. The problems were heightened by friction between MI and MP personnel, to include the BDE CDRs. (p. 12)

e. (U) The DCG, CJTF-7, failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq. MG Wojdakowski and the staff should have seen that urgent demands were placed to higher HQs for additional assets. LTG Sanchez and MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. (p. 15)

f. (U) The 800th MP BDE was among the lowest in priority for deployment and did not have the capability to overcome the shortfalls it confronted. (p. 12)

g. (U) Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. CDRs were responsible for all their units did or failed to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. The Panel found no evidence that organizations above the 800th MP BDE or 205th MI BDE were directly involved in the incidents at AGP. (p. 43)

h. (U) LTG Sanchez was responsible for establishing the confused command relationship at AGP. There was no clear delineation of responsibilities between the 320th MP BN and the 205th MI BDE. The situation was exacerbated by CJTF-7 FRAGO 1108 issued on 19 November 2003, that appointed the CDR, 205th MI BDE, as base CDR for AGP. The unclear chain of command established by CJTF-7, combined with the poor leadership and lack of supervision, contributed to the atmosphere at AGP that allowed the abuses to take place. (p. 45)

i. (U) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP. (p. 45)

j. (U) If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the CG, CJTF-7, could have set in motion the development of a more effective alternative course of action. In most cases these were errors of omission, but they were errors that should not go unnoted. (p. 47)

k. (U) By October-November 2003, CDRs and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff (JCS) knew the serious deficiencies of the 800th MP BDE, and should have at least considered reinforcing the troops for detention operations. (p. 48)

l. (U) The 800th MP BDE was totally dependent on higher HQs to initiate actions to relieve the personnel crisis. BG Karpinski emphasized personnel shortfalls in personal communications with CJTF-7 CDRs and staff as opposed to CFLCC. The response from LTG Sanchez and MG Wojdakowski was that the 800th MP BDE had sufficient personnel to accomplish its mission, and that the BDE needed to reallocate its resources among the other detention facilities. CJTF-7's, CFLCC's, and CENTCOM's failure to request additional forces was an avoidable error. (p. 49)

m. (U) CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7, and CENTCOM took too long to finalize the JMD. (p. 49)

n. (U) CJTF-7 could have requested a change in command relationships, placing the 800th MP BDE OPCON rather than TACON to CJTF-7. This would have permitted the CDR, CJTF-7, to reallocate assets under his control to the detention mission. Non-MP units could have been reassigned to help with detention operations. Additionally, CENTCOM could have assigned other Service's MP and security units to CJTF-7 for the detention operations mission. Mobilization and deployment of additional forces from the US was also a feasible option. (p. 50)

o. (U) Earlier, CJTF-7 had submitted a Request for Forces (RFF) for an additional Judge Advocate organization, but CENTCOM would not forward it to the JCS. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there was no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units. (p. 50-51)

p. (U) It was the responsibility of the combatant CDR to organize his forces in a manner to achieve mission success. Combatant CDRs and their subordinates needed to organize in a manner that afforded unity of command, ensuring that CDRs worked for CDRs and not staff. The fact that detention operations in Iraq were later commanded by a MG who reported directly to the operational CDR , and that 1900 MPs performed the detention mission formerly assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led BDE, indicated that more robust options should have been considered sooner. (p. 51)

q. (U) On September 14, 2003, CJTF-7 signed the theater's first policy on interrogation, which contained elements of the approved GTMO policy and elements of the SOF policy. Policies approved for use on al Qaeda and Taliban detainees, who were not afforded the protection of the Geneva Conventions, now applied to detainees who did fall under the Geneva Conventions protections. (p. 14)

r. (U) The working dogs were requested by the CDR, 205th MI BDE, who never understood the intent as described by MG G. Miller. Working dogs arrived at AGP in mid-November 2003. CJTF-7 directive, dated 14 Sep 2003 allowed working dogs to be used as an interrogation technique with the CJTF-7 Commander's approval. This authorization was updated by the October 12, 2003, memorandum, which allowed the presence of dogs during interrogations as long as they were muzzled and under the control of the handler at all times but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations, as well as abuses involving dogs that were unrelated to interrogations. (pp. 76-77)

s. (U) CJTF-7 determined that some of the detainees held in Iraq were to be categorized as unlawful combatants. Despite lacking specific authorization to operate beyond the confines of the GCs, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President of the US and extended it in Iraq to those who were not protected as combatants under the GCs. CJTF-7 understood there was no authorization to suspend application of the GCs. CJTF-7 had no means of discriminating detainees among the various categories of those protected under the GCs and those unlawful combatants who were not. (p. 83)

t. (U) LTG Sanchez signed a memorandum authorizing a dozen interrogation techniques beyond FM 34-52 - five were beyond those approved for GTMO. LTG Sanchez, on the advice of SJA, believed he had the inherent authority of the CDR in a Theater of War to promulgate such a policy and make determinations as to the categorization of detainees under the GCs. Policies approved for use on al Qaeda and Taliban detainees, who were not afforded the protection of the GCs, now applied to detainees who did fall under the GCs protections. CENTCOM viewed CJTF-7 policy as unacceptably aggressive. (pp. 9, 10, 14, 37)

u. (U) On 12 October 2003, LTG Sanchez rescinded his September 2003 directive and disseminated methods only slightly stronger than those in FM 34-52. The policy memorandum allowed for interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (p. 10) (EXHIBIT C-26)

27. (U) A statement by (b)(6)-2 & (b)(7)(C)-2 provided to DAIG on 26 October 2004, reflected:

[IO Note: (b)(6)-2 & (b)(7)(C)-2 swore to the contents of this written statement during the testimony he provided to DAIG on 26 October 2004.]

(b)(7)(D)

SAIG (20-1b) ANNEX 2 (DOCUMENTS) to DIG 05-80001

(b)(7)(D)

[redacted]

(b)(7)(D)

28. (U) In a sworn statement, dated 30 December 2004, COL (b)(6)-2 & (b)(7)(C)-2 CENTCOM, indicated:

a. (U) COL Warren submitted a request for 15-20 more lawyers and 15 paralegal noncommissioned officers (NCOs) in July-August 2003. He (b)(6)-4 & (b)(7)(C)-4) visited COL Warren in Baghdad in September 2003, and, after observing the activities of the CJTF-7 SJA office, became convinced that COL Warren needed all the legal support he requested. CJTF-7 provided considerable support to the CPA, and CJTF-7 lawyers were performing many missions not traditionally performed by a corps SJA office.

b. (U) Regarding the CENTCOM review of the CJTF-7 interrogation policy, the September 2003 policy was not wrong or illegal per se. They were simply more comfortable with a policy that more closely tracked FM 34-52. The FM was reviewed by policy makers and lawyers at the HQDA level, and they were confident everything was thoroughly vetted in terms of the applicable GCs. The 1987 version of the FM was used because it was the one posted to the Army publications website. He considered himself to be a fairly seasoned operational law attorney, but never had the occasion to legally review or draft an interrogation policy before. This was a highly specialized area not normally dealt with by military attorneys. As such, he was more comfortable with a policy that more closely tracked FM 34-52. He did not recall precisely the October 2003 policy letter, but it did not raise any "red flags" with him or his staff.

c. (U) He understood that the Joint Staff J-2 suggested that MG G. Miller visit Iraq and look at CJTF-7's interrogation operations. MG G. Miller understood that detainees in Iraq were subject to the GCs.

d. (U) COL Warren and his staff worked very hard, and probably did too much, but COL Warren understood that if he did not take on the extra missions, the job would not get done. COL Warren and his staff were doing what was necessary to the success of both CJTF-7 and the CPA. LTG Sanchez recognized he had an "extraordinary pocket of competency" in COL Warren and his staff, and took full advantage of that fact.

e. (U) COL Warren forwarded the CID executive summary (EXSUM) of the AGP detainee abuses to him (COL (b)(6)-2 & (b)(7)(C)-2 on 15 January 2004. He forwarded the EXSUM to the CENTCOM command group. It was clear that COL Warren and the CJTF-7 staff took the CID report very seriously.

f. (U) Planning for detainee operations in OIF primarily focused on EPWs and the application of Geneva III, rather than on civilian/security detainees under Geneva IV. The situation in Iraq never fully transitioned in Phase IV. COL Warren's approach to Phase IV was characterized by forward-thinking. He recognized early on that there was inadequate planning for the numbers of civilian/security detainees.

g. (U) In hindsight, the September and October 2003 policies could be considered confusing if looked at alone. The policies were never intended to stand alone or be read "in a vacuum." The interrogations were supposed to be conducted in accordance with written plans reviewed and approved by experienced interrogators.

h. (U) COL Warren understood the requirements of international law and the GCs better than any other attorney or officer in theater, and worked tirelessly to ensure CJTF-7 met all its legal obligations. (EXHIBIT C-28)

DTJAG [redacted]

DTJAG [redacted]

30. (U) The Church Report, dated 7 March 2005, stated:

a. (U) In Iraq, there was generally poor unit-level compliance with approved policy memoranda even when those units were aware of the policies. While the problems of policy dissemination and compliance were cause for concern, they did not lead to the employment of illegal or abusive interrogation techniques. (p. 10)

b. (U) It was a missed opportunity that interrogation policy was never issued to the CJTF-7 CDRs in Iraq as was done for GTMO. Had this occurred, interrogation policy could have benefited from additional expertise and oversight. By the time the first interrogation policies were published in Iraq in September 2003, two policies were thoroughly debated and promulgated for GTMO. Yet, CJTF-7 was left to struggle with these issues on its own in the midst of an insurgency. (p. 11)

c. (U) No link was found between approved interrogation techniques and detainee abuse. Much of the substantiated abuse was wholly unconnected to any interrogation technique or policy, as it was committed by personnel who were not MI interrogators, and who almost certainly did not know (and had no reason to know) the details of such policy. These personnel either knew or should have known their actions were improper because they clearly violated military doctrine and law of war obligations. Even when MI interrogators committed abuse, their actions were unrelated to any approved techniques. Even if interrogators were confused by the issuance of multiple interrogation policies within a short timeframe, as some have hypothesized regarding AGP, it was clear none of the approved policies would have permitted the types of abuses that occurred. (pp. 13-15)

d. (U) There was a failure to react to early warning signs of abuse. Warning signs were present in the form of communiqués to local CDRs. These warning signs were not given sufficient attention at the unit level nor were they relayed to the responsible CJTF-7 CDRs in a timely fashion. (p. 16)

[IO Note: The Church Report did not specify what these "communiqués" were. It was assumed that the report was referring to the ICRC Working Paper.]

e. (U) A breakdown of good order and discipline in some units could account for other incidents of abuse. This breakdown implied a failure of unit-level leadership to recognize the inherent potential for abuse due to individual misconduct, to detect and mitigate the enormous stress on troops involved in detention and interrogation operations, and a corresponding failure to provide the requisite oversight. (p. 16)

f. (U) After hundreds of interviews, the report found no direct or indirect link between interrogation policy and detainee abuse. (p. 92)

g. (U) LTG Sanchez initiated numerous measures to improve the Corps' capability to act as a CJTF, such as the assignment of GOs in key staff positions. In view of the unexpected intensity of the Iraqi insurgency, LTG Sanchez was forced to seek out and aggressively pursue additional resources to augment V Corps' capabilities from the very beginning of his tenure in command. The Church Team agreed with LTG Jones' conclusion that "the CJTF-7 CDR and staff performed above expectations, in the overall scheme of OIF." (p. 251)

h. (U) LTG Sanchez' approval of interrogation policies constituted recognition that not only were interrogation policies required, but also that strict controls were necessary to ensure compliance with the GCs. LTG Sanchez' key purpose for interrogation policy development was to regulate interrogations in Iraq by specifying approved techniques, mandating oversight and safeguards, and requiring adherence to the GCs. (p. 266)

i. (U) The Church Team was unable to corroborate the Independent Panel's statement that "CJTF-7, using reasoning from the President's memorandum of

February 7, 2002, which address 'unlawful combatants', believed additional, tougher measures were warranted because there were 'unlawful combatants' mixed in with enemy prisoners of war and civilian and criminal detainees." (p. 270)

j. (U) The vast majority of the abuses at AGP were completely unrelated to any doctrinal or otherwise approved interrogation policies, and did not occur during actual interrogations. (p. 275)

k. (U) There was ineffective dissemination of approved techniques from the theater HQs to individual units, and there was incomplete unit-level compliance with policy memoranda. LTG Sanchez' issuances of the memoranda were explicitly intended to ensure compliance with the GCs. Each subsequent policy sought to further define and constrain the limits of approved interrogations techniques. The breakdown in dissemination to the units may have caused some confusion as to which policies were currently in effect at a given time. (p. 277-278)

l. (U) The Schlesinger Report was technically correct in stating that "Interrogation techniques intended only for GTMO came to be used in Iraq." It was emphasized that CJTF-7 interrogation policies were explicitly crafted to comply with the GCs. This form of migration was neither accidental nor uncontrolled. (p. 289)

m. (U) Migration of interrogation techniques into Iraq was largely through official processes, including through the staffing of the interrogation policies with the CENTCOM SJA. Unofficial migration occurred when interrogators believed that techniques they had learned elsewhere were permissible under the GCs and FM 34-52. There was no evidence that interrogators consciously imported techniques they believed to exceed the law and policies applicable in Iraq. (p. 290)

n. (U) In reviewing cases of interrogation-related abuse, the Church Team found no evidence that approved interrogation policies contributed to abuse. (p. 293)

o. (U) Interrogation-related abuse, and the non-interrogation abuses at AGP, appeared unrelated to any approved interrogation policies. The promulgation of the September and October 2003 policies did not appear to play any role in the abuses at AGP or any of the closed, substantiated abuse cases in Iraq. If the policies had been adhered to, some of the abuses may have been prevented. (p. 304) (EXHIBIT C-30)

# ANNEX 3

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

1. (U) On 15 February 2004, BG Karpinski testified to MG Taguba:

a. (U) She got a transfer of authority (TOA) order that directed the move of the 800th MP BDE to Baghdad to be responsible for confinement and corrections operations in Iraq. AGP was selected as an interim site, for not more than three years. BG Paul Hill directed the 320th MP BN move to AGP before she took command. (p. 19)

[IO Note: BG Hill was the previous CDR of the 800th MP BDE.]

b. (U) On 9 September 2003, she was shown a list that was 2 ½ pages long of 800th MP BDE Soldiers that had been removed from theater for medical reasons. (p. 25)

c. (U) After one of MG Wojdakowski's visits to AGP, he directed that AGP become an enduring camp. MG Wojdakowski told the CJTF-7 Engineer, C-3, and C-4 that they had not been able to provide AGP with support because the 800th MP BDE was TACON to CJTF-7, but making AGP an enduring base would "open the doors." (p. 13)

d. (U) In November 2003, COL Pappas got a FRAGO directing that all tenant units at AGP were TACON to him for security of detainees and force protection. She was not informed of the FRAGO before it was issued. She saw MG Fast about the order. She told her it was done, no discussion required. (pp. 10-11)

e. (U) When she told MG Wojdakowski that she did not have the MP resources to cover 15 detention facilities, he told her to "figure it out." (p. 38)

f. (U) There were several incidents at AGP; escapes, accidental firearms discharge, etc. The BN CDR looked like he was overwhelmed, so she directed he leave AGP for a few days. The Soldiers at AGP were troubled because of the death of one of their members, the level of activity going on, the expansion of the facility, the extension of their tours, the sharing of the facility with other Soldiers, and that every "bad mission" was coming to them. She temporarily put another BN CDR in for LTC Phillabaum. At the time, LTC Phillabaum did not have an XO or a CSM. She checked with the 377th TSC and CJTF-7 for replacements for her deputy CDR and CSM. She could not get help. (pp. 40-42, 44)

g. (U) When AGP reached full capacity, the PM's and MG Wojdakowski's solution was to put up more tents at Camp Bucca. That was not consistent with treating prisoners with dignity and respect. (pp. 80-81)

h. (U) She told MG Wojdakowski, MG Fast, and the PM on numerous occasions that they had to treat prisoners IAW certain rules. The standard response was that "these are prisoners" and did not deserve any better treatment than Soldiers. (pp. 81-82)

i. (U) [redacted] She talked to COL Warren and COL Pappas at CJTF-7 HQs about the report and it was a big joke. They did not believe the report. She brought the report to MG Wojdakowski's attention, and told him that COL Pappas would prepare the response to the ICRC. MG Wojdakowski's guidance to her was to "see what the ICRC response is." (pp. 84-86)

[IO Note: BG Karpinski's testimony did not indicate what aspects of the ICRC report she brought to MG Wojdakowski's attention, nor did she indicate whether she showed him the report. BG Karpinski declined to be interviewed by DAIG.]

j. (U) The CJTF-7 did not want to bothered by her or force protection for AGP. They blew her off because she was a Reservist, she was TACON, and "a lot of other reasons." LTG Sanchez did not care until the MI Soldiers were killed at AGP. When the prisoners were killed, MG Wojdakowski told her "but they're prisoners, Janis. Did you lose any Soldiers?" (pp. 123) (EXHIBIT D-1)

2. (U) On 18 July 2004, BG Karpinski testified to MG Fay:

a. (U) There were losses in the 800th MP BDE for primarily medical reasons. Some of the BNs were down to 76%-78%. None were higher than 80% strength. There were no replacements. They could not even get MP companies transferred from Kuwait to the 800th MP BDE. (pp. 24-25)

b. (U) It was a conscious decision by the CG, CFLCC, to keep the 800th MP BDE OPCON to CFLCC. He was concerned that CJTF-7 would break up the BDE to supplement other missions besides detention. (p. 26)

c. (U) It was her opinion that LTG Sanchez and MG Wojdakowski wanted her to keep a BN at the HVD detention facility and to run the Corps holding area. (p. 38)

d. (U) She had conversations with MG Wojdakowski about every other night. She talked to him about force protection. They had no "force protection platforms" at AGP and the Soldiers were becoming concerned. She told him they were not getting support from him. She appreciated the funds he provided to help rebuild the compound, but she needed more funds for equipment, water, and food. He told her he was "looking at it." (pp. 68-70)

e. (U) When six prisoners were killed by a mortar attack on 17 August 2003, she immediately called MG Wojdakowski and told him she had no force protection other than a few High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs). They had only one .50 caliber weapon that they borrowed from the Marines. The next day CJTF-7 sent out two Bradley fighting vehicles, which manned the entry control point. Once the press left, the Bradleys left and did not come back. About two weeks later, another mortar attack killed some MI Soldiers. (pp. 70-71)

f. (U) Neither she nor her staff read the 19 November 2003 FRAGO when it first came out. Both she and COL Pappas had questions about the TACON relationship. It was COL Pappas' understanding that he had "operational control-tactical control" of the prison. That meant he could define the Soldiers' work assignments or use them for force protection. He could not change their work and make them truck drivers. If he thought they needed more MPs out in the prison compound, he could go to LTC Phillabaum and talk to him about it. (p. 146, 150-151)

g. (U) She told MG Wojdakowski that she was scheduled to brief LTG Sanchez on the timeline for restoring the prisons, and that she would mention to him that her number one concern was force protection at AGP. She almost pleaded with MG Wojdakowski to get more force protection platforms. (p. 155)

h. (U) When AGP was declared an enduring camp, MG Wojdakowski told her that the reason CJTF-7 had not been able to give them any resources was because the 800th MP BDE was not OPCON to CJTF-7. (p. 162)

i. (U) In November 2003, the Deputy Commanding Officer, 205th MI BDE, told her about the ICRC visit. She told her (BG Karpinski) that the ICRC observed naked detainees, and that one detainee told a story about being made to wear women's underwear on his head. (p. 181)

j. (U) She asked MG Wojdakowski for a COL to run AGP as the FOB CDR, because that person would have to work with COL Pappas, but MG Wojdakowski told her he didn't have anyone to give her. (p. 150) (EXHIBIT D-2)

3. (U) On 13 September 2004, MG Fay testified to DAIG:

a. (U) There was real confusion as to who was in charge of detention and interrogation operations. There was no one person in charge. It was a shared responsibility among CDRs and staff. MG Wojdakowski had some responsibilities because he supervised both BG Karpinski and COL Pappas. He was more involved with the detention side rather than the interrogations side, and relied heavily on COL Pappas for interrogation operations. MG Wojdakowski was mostly involved with handling the "huge numbers" of logistics issues facing CJTF-7. (pp. 3-4)

b. (U) Other persons involved were the PM, the C-2, and the SJA. Additionally, MG T. Miller was designated as responsible for detention operations by LTG Sanchez in February 2004. Doctrine was silent as to who had overall responsibility for detention operations. As such, CJTF-7 did not violate Army doctrine by not having a single person in charge of detention and interrogation operations.
(p. 4-5)

c. (U) It was not fair to place all the burden on LTG Sanchez for not recognizing there were problems at AGP. As a country, we under-resourced CJTF-7 and "under-appreciated" what we would face in Iraq. We were optimistic on the amount of resistance we would face. We did not react fast enough to the insurgency. We should have been more pessimistic in our initial plan. This was an under-resourced operation that changed quickly from a combat operation to an insurgency, and they were left with a force that was not put together to fight an insurgency. It was not negligence. (p. 6)

d. (U) Most of BG Karpinski's dealings at CJTF-7 were with MG Wojdakowski, rather than with the PM or C-3. (p. 7)

e. (U) Leaders at the 205th MI BDE level and below failed to effectively manage pressure on JIDC personnel. It was not the job of LTG Sanchez or MG Wojdakowski to protect Soldiers in the JIDC from that pressure. (pp. 7-8)

f. (U) The ICRC report was ignored by personnel in CJTF-7 SJA, 205th MI BDE, and 800th MP BDE because they found the allegations to be unbelievable. It was a known issue at AGP that clothing for the prisoners was hard to obtain; therefore it was unbelievable that prisoners were wearing women's underwear when the prison couldn't even get regular clothes. But it turned out the allegations were true. (pp. 10-11)

g. (U) Regarding the manning of the JIDC, COL Pappas should have asked for a unit to perform that mission. Instead, he used personnel provided to him from all over the Army. A more effective method would have been for him to turn to one of his BNs and give them the mission. Additional organizations like a JIDC should not be created if we have to "pay for them out of hide." (pp. 23-24) (EXHIBIT D-3)

4. (U) On 14 October 2004, LTG Jones testified to DAIG:

a. (U) Most of the CJTF-7 staff was focused towards supporting the CPA and fighting the insurgency. For example, the C-2 spent more than 50% of her time supporting the CPA. She did "yeoman work" getting the intelligence priorities out and making it seamless from tactical to strategic. She established the communications for this with little or no resources. Their focus in the October-November 2003 timeframe was taking down Saddam Hussein's support base. (pp. 3-5)

b. (U) The conditions at AGP started to improve later in the fall. As the central location where all the prisoners were to be "filtered through", it begged the question, "Are we doing it right?" (p. 5)

c. (U) An MP BN was supposed to be able to handle up to 4000 detainees. The AGP mission was assigned to the 320th MP BN because they were already moved in to AGP. The leadership in the 320th MP BN broke down, and they didn't ensure proper oversight. They didn't check things day and night. In the intelligence arena, LTC Jordan didn't take charge of the JIDC. He became the "buddy" and friend of the different factions. No one was in charge of the interrogators. No one checked the procedures. With no one in charge, it led to a permissive environment that allowed some of the personnel who lacked discipline to influence what was going on in the compound. (pp 7-8)

d. (U) The interrogation techniques set forth in the CJTF-7 interrogation policies could have been used without violating the GCs, but they allowed the perception that additional techniques could be used other than what was provided in the interrogators' training. By emplacing safeguards, LTG Sanchez thought that he could control what techniques would be used. (p. 9)

e. (U) They had to build the CJTF from scratch. They had to build an organization in which none of them had ever served. They had just fought the tactical fight; now they were focused at the strategic level. The CofS was moved over to support the CPA. Another piece of the staff was split to the DCG, CJTF-7, to fight the war. Because of resourcing and the way they were set up, the staff was pulled in three different directions. All the divisions and SEP BDEs "morphed" from 12 to up to 18 SEP BDEs. All were waiting for guidance and direction, and it was a challenge. (p. 14)

f. (U) The primary staff officers focused up, and by default, the lower level staff officers worked the other issues. The residual SJA personnel were running the show in the OSJA because the leadership was preoccupied running the war and supporting the CPA. There was limited time to go out and see what was happening. (p. 14)

g. (U) CJTF-7 was given not only CJTF responsibilities, but also ASCC and ARFOR responsibilities. LTG Sanchez was one person, and a brand-new LTG. He did not complete two years as a division CDR. He went from commanding about 15,000 Soldiers in a division to over 180,000 people in a coalition. It overwhelmed him and the CJTF-7 staff. (p. 15)

h. (U) The interrogation policies did not adequately set forth the limits on interrogation techniques because they were open to interpretation by junior Soldiers. The safeguards were vague. (p. 18)

i. (U) In hindsight, LTG Sanchez should have made one person in charge of detention and interrogation facilities. There was no CofS. The C-1 was responsible for personnel and ensuring there were backfills. The C-2 was setting the overall intelligence collection priorities. The C-3 was overall responsible for detention operations with some execution responsibilities with the PM. The C-4 was responsible for logistical support. The DCG was establishing priorities not only for the detention facilities, but also for the different base camps and the construction. Finally, there were all the SEP BDEs that fell under MG Wojdakowski. A person would have to go to individual staff sections to talk different issues. There was no CofS to synchronize the efforts. (pp. 19-20)

j. (U) Initially, AGP was a temporary facility, and MG Wojdakowski gave it very little priority. In the summer of 2003, everyone was living in "pretty shoddy conditions." LTG Sanchez visited, and directed that this be fixed. (p. 20)

k. (U) MG Wojdakowski had two new BDE CDRs in COL Pappas and BG Karpinski. These CDRs were not experienced in the theater. COL Pappas came out of the US Army War College, and BG Karpinski came out of the Reserve ranks. MG Wojdakowski could not have known their experience level. They probably demanded more oversight and supervision. (p. 21-22)

l. (U) In MG Wojdakowski's defense, he was trying to get the Logistics Capabilities (LOGCAP) set up, secure the immature lines of communications, and establish contracts to get the supplies moving forward. The units' equipment had just gone through a war, and needed a lot of attention. As a result, he let COL Pappas and BG Karpinski execute their mission in a decentralized way. In retrospect, he probably should have brought them in and given them more specific guidance because he was in their direct chain of command. Those units needed more attention. BG Karpinski "probably didn't accept any guidance or leadership". COL Pappas "was probably hungry for it." (p. 22)

m. (U) In his opinion, BG Karpinski wanted the position of command but did not want to accept the responsibilities that went with it. She had to be told to move her staff to Iraq. She was often found back in Kuwait. She had to be directed to go check on the MeK facility that held the Iranian freedom fighters. LTG Sanchez had a confrontation with her about taking charge. There were indications she was weak. (p. 23)

n. (U) In COL Pappas' case, his inexperience led to the lack of a decision on making someone in charge of the JIDC. He had other BN CDRs, and he could have moved one into AGP and set up a clear chain of command to execute that mission. MG Wojdakowski's failure to recognize this need for additional oversight was a shortcoming, but it was not negligence, primarily because of the magnitude of what he was facing. (pp. 23-24)

o. (U) The failure to effectively manage the pressure for intelligence on JIDC personnel fell at COL Pappas' level and below. The pressure for intelligence was not abnormal, and was appropriate. But as the pressure "morphed" down to the lower levels, the interpretation of the CDR's intent and the establishment of standard procedures was not there. (p. 25)

p. (U) The Army and the Joint Community had no system for dealing with the ICRC in this situation. Our doctrine did not deal with a strategic detention facility. There was no specific staff responsibility in CJTF-7 to interface with the ICRC, but that was later fixed. (p. 28)

q. (U) The fault of not re-evaluating the campaign plan was more CENTCOM's fault that LTG Sanchez'. CJTF-7 used FRAGOs to change the plan. They did not have the time or resources to rewrite the campaign plan. Later there was a four-star CDR there, with separate Title 10 ASCC responsibilities from the warfighting responsibilities. (pp. 30-31)

r. (U) BG Karpinski used the TACON relationship both ways. She told CJTF-7 "you gotta support me." In reality, her support base was the 377th TSC. The 377th TSC did not see any role in supporting the 800th MP BDE. BG Karpinski kept going back to Kuwait to "keep that relationship going." She played both sides against the middle. She never accepted ownership of her mission. (p. 32)

s. (U) V Corps was "left holding the bag" when CFLCC left. Although the senior leadership in CJTF-7 was responsible for what did and did not happen, they did tremendous work based on what they were tasked to do. We as an Army did not set CJTF-7 and its leaders up for success, and "we're part to blame." A situation was dealt to them for which their level of experience and their resourcing was inadequate. This was a travesty. As a Nation, as a joint community, we did not "step up and help them when we should have, and that's terrible." (pp. 33, 36) (EXHIBIT D-4)

(b)(7)(D)

[redacted]

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(c)

[redacted]

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

[redacted]

(b)(7)(C)

[redacted]

(b)(7)(D) [redacted]

15. (U) On 21 December 2004, AMB Bremer testified to DAIG:

a. (U) It was important for the CPA and CJTF-7 to have a close relationship. For the first three or four months, the military was the major presence outside of Baghdad. LTG Sanchez moved his office and top people to the CPA HQs, and provided the CPA a briefing every morning regarding overnight developments. The meeting gave LTG Sanchez and his colleagues a chance to hear what CPA was doing on the political side. (pp. 4-5)

b. (U) The initial assumption that there would be a permissive environment in which to conduct SASO was valid at the time, based on what they knew. The insurgency did not start on a major scale until August 2003, with the attacks on the Jordanian embassy and the United Nations mission. (p. 5)

c. (U) In August 2003, he was concerned that their intelligence was not focused on the right target. The Central Intelligence Agency (CIA) station was spending most of its time looking for weapons of mass destruction (WMD). It did not strike him that it was likely that any coalition Soldiers were going to be killed by WMD, but they were getting killed by insurgents. The intelligence needed to be targeted on the insurgency. As a result, he directed the establishment of an intelligence fusion cell that brought together the intelligence capability of the military, the CIA, the Defense Intelligence Agency (DIA), etc. MG Fast was placed in charge. He visited the fusion cell several times, and it was his impression that they did a good job pulling the intelligence together. (p. 8)

d. (U) This was not to say their intelligence was good - they were not getting enough intelligence on the insurgents, which was why he emphasized standing up an Iraqi intelligence service. The CPA and CJTF-7 were not organized to get that kind of intelligence. They were in a situation not faced by the US government for over 50 years. They were occupying a country, and the only useful intelligence was HUMINT. The technical intelligence was irrelevant regarding an insurgent running around with a rocket propelled grenade (RPG). They needed people who would tell them where the insurgency cells were, and that meant they needed Iraqis who would cooperate. They had a massive amount of information that was not getting collated in a useful fashion. It was possible that the people they were talking to did not have anything useful to say. It was also possible that the information was not adequately assessed, either in Washington or in the fusion cell. (pp. 9-10)

e. (U) LTG Sanchez was a good officer, and he admired him for his patriotism and his skills. (p. 10)

f. (U) At the time the CPA was stood up in June 2003, all the prisons in the country were looted or destroyed. There was no medium security prison anywhere other than AGP, and AGP was the only maximum security prison available. After surveying all the options, he told the SecDef that they had to use AGP. Regarding the existing Iraqi justice system at the time, they did not have prisons, courts, or judges. They had to establish these, and they could not wait the three years they were told it would take to build a new maximum security prison. They worked the complicated problem of how to transfer the Iraqi prisoners out of US custody into Iraqi custody. It was key to remember that Saddam Hussein released thousands of hardened criminals into Iraqi society that the coalition later gathered up. Initially, they did not have a good system for sorting the security detainees from the criminals, and he pressed hard for a better process. The situation eventually improved. By September 2003, they were not keeping detainees on perpetual "MI hold". A reason was required to continue to detain security detainees. (pp. 11-14)

g. (U) He had regular meeting with LTG Sanchez regarding detention operations and detainee population numbers because it was a matter of concern. He (Mr. Bremer) walked through AGP several times, and it was neither chaotic nor a "rat hole." Although several hundred prisoners were living in tents at the time of his visits, so were most of the Soldiers. The prison blocks were in the process of being rebuilt, and they were a big improvement. (pp. 14-16)

h. (U) He pressed CJTF-7 to ensure they met their obligations under international law on how often they reviewed a security detainee's status. Keeping Iraqis detained for too long was a political problem, because this could potentially create enemies. (p. 17)

i. (U) The CPA had several hundred military personnel on their staff provided by CJTF-7. There was a high degree of integration with the military. The CofS, CJTF-7, was heavily engaged with the CPA. (pp. 18-19)

j. (U) He was not aware any guidance given to MG Fast regarding CJTF-7's cooperation with OGAs, specifically the CIA, and the use of AGP facilities. He guessed such guidance, if any, came from the military. (p. 19)

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k. (U) They had about 80-85% of all the MPs in the entire Army in Iraq. There was a limit to how much more could be done. They couldn't ask to have 100%. (p. 20)

l. (U) Iraq was a very complicated environment for both the military and civilians, and one for which there was no recent American experience on this scale. America did not face insurgencies in Germany and Japan after World War II. It was difficult for everyone to figure out how to make this civil-military approach to an occupation work. Detention was a problem and he and the CPA staff worked it. They received no resistance from LTG Sanchez and his staff on the matter. CJTF-7 may have been under-manned, but they never raised it to him as a problem. (pp. 21-22)

m. (U) He did not see conceptually how the prison population at AGP could have contributed to the abuse. (p. 22) (EXHIBIT D-15)

(b)(7)(C)

[redacted]

(b)(7)(D)

(b)(7)(C)

(b)(7)(D)

[redacted]

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(b)(7)(c)

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(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(C)

[redacted]

(b)(7)(C)

[redacted]

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

[redacted]

# ANNEX 4

2. (U) Allegation #1: LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations.

a. (U) Article 92 of the UCMJ stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Actual knowledge of the duties could be shown by regulation, customs of the service, or testimony of persons who held similar or superior positions. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse. (EXHIBIT B-1)

b. (U) The allegation that LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations was derived from the following statements in the reports reviewed for this investigation:

(1) (U) The Jones Report:

(a) (U) The CG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations.

(b) (U) The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership.

(c) (U) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. (EXHIBIT C-25)

(2) (U) From the Kern Report:

(a) (U) There was a lack of clear command and control of detainee operations at the CJTF-7 level.

(b) (U) The ICRC's allegations of abuse at AGP were not believed, nor were they adequately investigated. There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits. (EXHIBIT C-23)

(3) (U) From the Schlesinger Report:

(a) (U) LTG Sanchez failed to ensure proper staff oversight of detention and interrogation operations.

(b) (U) LTG Sanchez should have ensured his staff dealt with the command and resource problems. He should have ensured that urgent demands were placed for appropriate support and resources through CFLCC and CENTCOM to the JCS.

(c) (U) Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(d) (U) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(e) (U) If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the CG, CJTF-7, could have set in motion the development of a more effective alternative course of action.

(f) (U) LTG Sanchez was responsible for establishing the confused command relationship at AGP. There was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE.

(g) LTG Sanchez should have taken more forceful action in November 2003 when he fully comprehended the depth of the leadership problems at AGP. His apparent attempt to mentor BG Karpinski was insufficient in a combat zone in the midst of a serious and growing insurgency.

(h) (U) There was a failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at AGP were known and under investigation as early as January 2004, but the gravity of the abuses was not conveyed up the chain of command to the SeCDeF. The Taguba report was transmitted to LTG Sanchez and the CG, CENTCOM, but the impact of the photos was not appreciated by any of these officers.

(i) (U) CJTF-7 determined that some of the detainees held in Iraq were to be categorized as unlawful combatants. Despite lacking specific authorization to operate beyond the confines of the GCs, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President of the United States and extended it in Iraq to those who were not protected as combatants under the GCs. CJTF-7 understood there was no authorization to suspend application of the GCs. CJTF-7 had no means of discriminating detainees among the various categories of those protected under the GCs and those unlawful combatants who were not. (EXHIBIT C-26)

(2) (U) Element #1: Did LTG Sanchez have duties with respect to detention and interrogation operations? **Yes.** As the CG, CJTF-7, LTG Sanchez was responsible for all CJTF-7 operations in CJTF-7's AOR. AR 600-20 stated that CDRs were responsible for everything their command did or failed to do, and that CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. The evidence established that LTG Sanchez delegated authority for detention and interrogation operations to the CDRs of the 800th MP BDE and 205th MI BDE, respectively. He assigned staff responsibility for detention operations to the C-3, who exercised staff oversight through the PM. He assigned staff responsibility for interrogation operations to the C-2, and assigned overall supervisory responsibility for the CJTF-7 staff to MG Wojdakowski as the de facto CofS. Additionally, he delegated authority to MG Wojdakowski to supervise CJTF-7's SEP BDEs, which included the 800th MP BDE and 205th MI BDE.

(3) (U) Element #2: Did LTG Sanchez know or should he have reasonably known of this duty? Yes. The evidence established that LTG Sanchez, as the CG, CJTF-7, knew and accepted his duties as the CG, CJTF-7, regarding detention and interrogation operations. Testimony was consistent among LTG Sanchez and other witnesses as to his duties as the CDR with respect to detention and interrogation operations.

c. (U) Element #3: Was LTG Sanchez derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency? **No.**

(1) (U) **With respect to providing proper oversight of detention and interrogation operations:** Both the Jones and Schlesinger Reports stated that

LTG Sanchez failed to ensure proper staff oversight of detention and interrogation operations. The Jones Report stated the TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff and a lack of intrusive, aggressive oversight by the CJTF-7 leadership. The Kern Report stated there was a lack of clear command and control at the CJTF-7 level. The Schlesinger Report stated that CDRs and their staffs at various levels failed in their duties, and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(a) (U) AR 600-20 stated that CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. The evidence established that LTG Sanchez properly provided oversight of those SEP BDEs and elements of the CJTF-7 staff with responsibility for detention and interrogation operations. Through MG Wojdakowski, LTG Sanchez established regular procedures by which he provided oversight of the SEP BDEs, regardless of whether the units were OPCON or TACON to CJTF-7. Testimony indicated MG Wojdakowski provided frequent guidance and mentoring to the CDRs of both the 205th MI BDE and 800th MP BDE. (b)(7)(D) (b)(7)(D) (b)(7)(D) BG Karpinski indicated she had conversations with MG Wojdakowski almost daily regarding her concerns about personnel and force protection at AGP. Testimony established that MG Wojdakowski provided her substantial guidance and assistance within CJTF-7's authority and resourcing level while holding her responsible for matters within her control. The CJTF-7 leadership provided routine oversight of the SEP BDEs through a variety of mechanisms. MG Wojdakowski held thrice-weekly TACSAT updates with the SEP BDE CDRs, which kept him and LTG Sanchez abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Both the 205th MI BDE and the 800th MP BDE participated in these updates. Monthly LRRs were held in which the CDRs provided updates on their materiel readiness, resource, and life support issues. As these SEP BDE CDRs planned and executed missions, MG Wojdakowski appropriately required that they rehearse and outline their plans to him.

(b) (U) (U) MG Wojdakowski hosted two CJTF-7 detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the

CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the Divisions, the 205th MI BDE, and the 800th MP BDE. AMB Bremer and the CPA had a legitimate political interest for CJTF-7 to expeditiously identify and release eligible civilian detainees back into the populace in order to reduce civil tensions. LTG Sanchez and CJTF-7 had a legitimate military interest to identify, detain, and interrogate persons identified to have intelligence value. Detention summits were a means to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort.

(c) (U) As the de facto CofS, MG Wojdakowski properly managed multiple staff activities pertaining to detention and interrogation operations on a regular, systemic basis. MG Wojdakowski provided oversight of the CJTF-7 staff by synchronizing the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. LNOs from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the 800th MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. While he was not personally involved in the execution of interrogation operations, MG Wojdakowski provided resources in terms of equipment, supplies, and contracting for the interrogation mission, and received regular updates from MG Fast and COL Pappas. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Additionally, CJTF-7 published several FRAGOs that addressed detention operations and the treatment of detainees.

(d) (U) In addition to establishing oversight of the SEP BDEs and staff through MG Wojdakowski, the evidence indicated that LTG Sanchez was also directly involved in providing such oversight. (b)(7)(D) [redacted] (b)(7)(D) [redacted] (b)(7)(D) [redacted] LTG Sanchez visited AGP several times as part of his effort to periodically visit his units. He met personally with the interrogators at AGP to emphasize the limits of their interrogation authorities. He provided considerable guidance on interrogation operations directly to COL Pappas, and in November 2003, he directed COL Pappas to move to AGP to ensure more command oversight of the interrogation operation. LTG Sanchez had frequent interaction with BG Karpinski, and as a result of one of their meetings, directed that AGP become an enduring base, and thus receive higher priority for resources. The evidence indicated that both LTG Sanchez and MG Wojdakowski provided oversight of the 800th MP BDE, a TACON unit, in a manner similar to the oversight provided to CJTF-7's OPCON or assigned units.

(e) (U) The evidence established that LTG Sanchez recognized and addressed the challenges inherent in re-establishing an Iraqi national prison system while concurrently identifying, detaining and interrogating persons of intelligence value. He pro-actively sought assistance and additional resources to address shortfalls in both the detention and interrogation operation. In the summer of 2003, LTG Sanchez requested assistance that resulted in the Ryder visit in October 2003. LTG Sanchez was personally briefed by MG Ryder on the results of his detention operations assessment, and he directed the implementation MG Ryder's recommendations. LTG Sanchez also recognized that CJTF-7's interrogation operations were not configured to produce the actionable intelligence required to fight the insurgency, and identified this as a shortfall to his chain of command. Consequently, MG Fast was sent to direct the establishment of a viable intelligence architecture. In response to the requirement to develop operational intelligence capabilities, MG G. Miller's assessment team provided feedback on the establishment of effective interrogation operations that could produce the intelligence needed to address the growing insurgency. MG G. Miller out-briefed LTG Sanchez personally on the results of his assessment, and later sent interrogation Tiger Teams to assist the 205th MI BDE in establishing this capacity. As such, the evidence established that LTG Sanchez was actively and personally involved in the establishment and assessment of detention and interrogation operations, and was pro-active in responding to identified shortcomings by requesting appropriate assistance.

(f) (U) AR 600-100 stated that strategic leaders established structure, allocated resources, and articulated strategic vision. As a three-star CG of a combined joint task force, LTG Sanchez properly exercised his responsibilities at the strategic level of leadership. In addition to his responsibilities commanding CJTF-7, LTG Sanchez was heavily focused on supporting the CPA, interfacing with DOD and the National Command Authority, and contributing to the effort to re-build Iraq's infrastructure. He directed MG Wojdakowski to focus on fighting the coalition's counter-insurgency fight, resourcing CJTF-7's operations, and providing strategic-level oversight of detention and interrogation operations. AR 600-100 further stated that the senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. LTG Sanchez expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive and appropriate supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, LTG Sanchez, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP.

(g) (U) Direct supervision of the MP Soldiers at AGP was the responsibility of the MP BN CDR, LTC Phillabaum, and his subordinate leaders. Prior to COL Pappas' arrival at AGP in November 2003, direct supervision of the MI Soldiers at AGP was the responsibility of LTC Jordan and subordinate MI leaders in the JIDC. AR 600-100 stated that leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The command and staff failures cited by the Schlesinger report and attributed directly to detainee abuse were failures in leadership at the brigade and battalion levels. These failures were not attributable to a lack of oversight by LTG Sanchez.

(h) (U) The evidence established that LTG Sanchez' ability to provide a higher degree of oversight was hampered by the corps staff's lack of preparation and training as a CJTF; the low manning and experience level of the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. Both testimony and reports revealed that CJTF-7 was never fully resourced in terms of personnel - in raw numbers, experience, and grade-level. The CJTF-7 staff did not undergo a BCTP normally afforded to new corps-level staffs and CDRs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. A portion of the staff, to include the CofS, moved from the Main HQs CP to co-locate with the CPA. CJTF-7's challenges were exacerbated by the slow fill and short-duration personnel rotations at the CPA attributed to various Service and CPA rotation policies. As a result, a significant portion of the already under-strength staff was devoted to assisting the CPA with the huge mission of the reconstruction of Iraq's infrastructure and internal security forces, adversely affecting LTG Sanchez' ability to provide the additional oversight cited critically in several reports.

(i) (U) In conclusion, the preponderance of the evidence indicated that LTG Sanchez provided proper oversight of detention and interrogation operations IAW Army doctrine and regulation, in a manner that could reasonably be expected considering the broad range of his and his subordinate's responsibilities and the available resources. Given the enormity of CJTF-7's mission and the lack of adequate personnel resources, LTG Sanchez properly subdivided responsibility and authority for detention and interrogation operations to the appropriate subordinate CDRs and staff. In spite of multiple responsibilities and significant resource challenges, numerous witnesses testified to efforts made by LTG Sanchez to inform, mentor, direct, resource and supervise his subordinates through a variety of mechanisms. The evidence also established that LTG Sanchez held his staff and subordinate CDRs accountable for their responsibilities, and he expected them to fully employ their own leadership and internal resources prior to asking for additional resources in a constrained environment.

(2) **With respect to the establishment of a single POC on the CJTF-7 staff to oversee both detention and interrogation operations**: The Jones Report stated that CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. The Schlesinger Report stated that LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski, and intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(a) (U) The evidence established that LTG Sanchez exercised oversight of detention and interrogation operations IAW Army doctrine and regulation. FM 101-5 stated that command included the authority and responsibility for effectively using available resources for the employment of military forces for the accomplishment of assigned missions. AR 600-20 stated that CDRs subdivided responsibility and authority and assigned portions of both to subordinate CDRs and staff members. The evidence established that command responsibility for detention and interrogation operations was executed through the CDRs of the 800th MP BDE and 205th MI BDE, respectively. FM 101-5 also stated that CDRs delegated authority to staff members to accomplish their missions. As the de facto CofS, MG Wojdakowski was LTG Sanchez' principal assistant with executive management authority for directing and supervising the CJTF-7 staff at Camp Victory. IAW Army doctrine, the C-2 was the principal staff officer responsible for MI operations; and the C-3, through the PM, was responsible for detention operations. The evidence established that staff oversight of detention and interrogation operations was appropriately executed through the C-3 and C-2.

(b) (U) Army doctrine was silent as to who should have overall responsibility for detention operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. While the desirability for a GO in charge of both operations may have been obvious in hindsight, this approach was not doctrinal. As early as November 2003, during the Ryder visit, LTG Sanchez discussed his desire for a MP GO staff principal, and instead received a colonel to serve as the PM. CJTF-7 did not have the resources to create an additional GO position, and the JMD process could not support such a position in a timely manner. Eventually, MG G. Miller was assigned DCG for Detainee Operations, CJTF-7, in April 2004. As such, the initial absence of such a position was not indicative of a lack of action on the part of LTG Sanchez, or of impropriety on his part.

(3) **(U) With respect to resourcing detention and interrogation operations:**

(a) (U) The Jones report stated the TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff and lower priority for resources needed for detention operations. The Schlesinger report stated that LTG Sanchez should have ensured his staff dealt with the command and resource problems, and should have ensured that urgent demands were placed for appropriate support and resources through CFLCC and CENTCOM to the JCS.

(b) (U) The evidence established that LTG Sanchez and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP. CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely attacked. LTG Sanchez characterized the challenging logistics posture throughout 2003 as "expeditionary logistics." In addition, much of Iraq's infrastructure, such as water treatments plants, electrical plants, and government buildings were severely damaged and looted, far beyond predictions. While the CPA and CJTF-7 hoped to leverage existing Iraqi infrastructure and institutions, the extreme level of degradation and damage became an additional inhibitor rather than a multiplier. As a direct result, Soldiers' and detainees' living conditions alike were difficult and austere throughout Iraq, to include AGP.

(c) (U) When BG Karpinski raised resourcing concerns to LTG Sanchez during his visit to AGP in October 2003, LTG Sanchez directed that AGP be declared an "enduring base." AGP was originally intended by CPA to be a temporary facility until a new prison could be built. The status of "enduring base" gave AGP a higher priority for reconstruction funds from the CPA. As a result, MG Wojdakowski directed that additional funds and engineering effort be applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. When the shortage of prisoner clothing was brought to MG Wojdakowski's attention, he directed the CJTF-7 staff to purchase additional jumpsuits. Furthermore, testimony indicated that the 800th MP BDE received support in a manner similar to that of CJTF-7's assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing by CJTF-7. Although the TACON relationship did not require CJTF-7 to provide the 800th MP BDE's logistical support, (b)(7)(D) (b)(7)(D) (b)(7)(D) There was no evidence that BG Karpinski raised critical logistics issues to the 377th TSC, the 800th MP BDE's OPCON HQs. In sum, the evidence established that LTG Sanchez and his staff were responsive to resource shortcomings that were brought to their attention, and they responded in a manner consistent with their authority and resourcing level in an "expeditionary logistics" environment.

(d) (U) The evidence further established that LTG Sanchez acted appropriately when apprised of personnel shortfalls in the 800th MP BDE. The RC had no replacement system for individual losses. The 800th MP BDE, as well as other RC units, was eroded in personnel strength due to losses by illness, injury, or demobilization requirements. The shortages were systemic RC issues and not due to lack of oversight on the part of CJTF-7. While CJTF-7 recognized these personnel shortages, they had no means to alleviate them. The theater rotation plan was the only means to significantly affect MP unit strength.

(e) (U) Although the Ryder report identified that the 800th MP BDE was under-strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining BN and company sized units to meet its mission requirements. (b)(7)(D)

(b)(7)(D)

(f) (U) Testimony indicated that up to 75% of the Army's MP assets were already in Iraq. Additional MP companies were not available, and some replacement companies for the 800th MP BDE would be ILO companies. ILO companies were non-MP units, such as field artillery batteries, who were trained to perform MP missions. The most feasible solution for the immediate shortage of MPs was the internal redistribution of the 800th MP BDE's units. The evidence indicated that upon becoming aware of BG Karpinski's personnel concerns and the lack of theater replacements, multiple leaders attempted to influence BG Karpinski to internally redistribute her own resources between detention facilities. Testimony indicated she was reluctant to move her units. BG Karpinski did bring reasonable concerns about her personnel strength to MG Wojdakowski, and he properly indicated to her that he could not help her with replacements due to the lack of a replacement system for reservists and the lack of an Army stop loss policy at the time. Both LTG Sanchez and MG Wojdakowski were aware that there were few, if any, MP units remaining in the Army available for deployment to Iraq, and in December 2004, MG Wojdakowski moved MPs from the 1st AD to AGP to relieve some of the pressure. LTG Sanchez' and his staff's actions regarding the 800th MP BDE's personnel shortages were appropriate in light of the limited resources available.

(4) **With respect to the establishment of COL Pappas as the FOB CDR at AGP**: The Schlesinger Report stated that LTG Sanchez was responsible for establishing the confused command relationship at AGP. There was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE.

(a) The evidence indicated that when force protection issues concerning AGP arose, LTG Sanchez took appropriate action. The C-3 worked battle space management and friendly unit boundary issues external to AGP to reduce instances of mortar attacks. (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D)

(b) Although the Schlesinger Report indicated that there was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE, COL Pappas indicated that he understood his responsibilities with respect to force protection of the FOB and that LTC Phillabaum understood that he still had the responsibility to run the detention operation. In fact, by making COL Pappas the FOB CDR, FRAGO 1108 fixed responsibility for force protection at AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO. There was no credible evidence that LTG Sanchez' designation of COL Pappas as the FOB CDR of AGP resulted in a confused relationship between the two units at the prison. LTG Sanchez took appropriate and responsible actions to enhance the protection of both Soldiers and detainees at AGP.

(4) **With respect to the ICRC Working Paper and reporting procedures**: The Kern Report stated that the ICRC's allegations of abuse were not believed, nor were they adequately investigated. There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits.

(a) The evidence established that initially, procedures for dealing with the ICRC were not specifically defined. Prior to October 2003, CJTF-7 enjoyed a good working relationship with the ICRC and worked closely with its members. Following the bombing of the ICRC compound in Baghdad in October 2003, the ICRC moved its operation to Jordan, and the previously close relationship with CJTF-7 waned due to the arrival of new ICRC personnel with whom CJTF-7 had no previous working relationship and to the long travel distance. The ICRC's visit to AGP in early October 2003 did not go well due to this loss of a routine working relationship and poor execution by the 320th MP BN. Until the procedure was changed by LTG Sanchez, the ICRC's established procedure was to provide its reports at the lowest level of command in order to preserve the confidentiality of the ICRC process. As such, the ICRC provided its Working Paper on the results of the October 2003 visits to AGP that included allegations of detainee abuse to BG Karpinski in November 2003. She provided a response to the ICRC in late December 2003.

(b) Copies of the Working Paper were made available to members of the Office of the SJA (OSJA), CJTF-7, the 205th MI BDE, the 800th MP BDE, as well as others on the CJTF-7 staff. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible based on their inquiries with personnel who spent time at the prison, and did not report or investigate them further. In December 2003, COL Warren informed LTG Sanchez of the procedural problems with the October 2003 ICRC visit. LTG Sanchez directed COL Warren to clarify ICRC visit procedures and directed that all ICRC reports would be reported out through him so that he could remain fully informed and direct corrective action as required. LTG Sanchez was not made aware of the allegations of abuse contained in the Working Paper until February 2004, after the Taguba Investigation had started. Upon being informed by COL Warren of the specifics of the allegations, LTG Sanchez ensured that the allegations were being investigated by MG Taguba. As such, the evidence established that once apprised of the ICRC procedural issues and allegations of abuse, LTG Sanchez took appropriate corrective action to ensure better procedures were established and that the allegations were properly and thoroughly investigated.

(5) **(U) With respect to developing alternative courses of action pertaining to detention operations:**

(a) (U) The Schlesinger Report stated if CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the CG, CJTF-7, could have set in motion the development of a more effective alternative course of action. AR 600-100 stated that leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating structures and programs for ensuring that procedures developed at lower levels further supported Army policies and values.

(b) (U) The evidence established that LTG Sanchez took appropriate action with respect to developing courses of action and procedures for detention operations. Testimony indicated that in the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required and recognized that expert assistance was needed. LTG Sanchez raised his concerns to higher HQs. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These assistance teams provided on-site training to units involved in the detention and interrogation mission and provided examples of applicable SOPs and policies. LTG Sanchez was briefed on and considered the teams' findings. Additionally, interrogation Tiger Teams were sent to the 205th MI BDE to assist with interrogations, and a MTT from Ft. Huachuca was sent to AGP to provide more intelligence operations training.

(c) (U) The CJTF-7 leadership directed the 800th MP BDE to move its HQs to Iraq in order to more closely supervise the detention mission for which it was responsible. Testimony indicated that the C-3 published several FRAGOs providing detention operations guidance and direction. Detention summits were held in order to assess the on-going mission, during which issues were raised and corrective action was directed. When LTG Sanchez declared AGP an enduring base in November 2003, additional resources were directed towards the improvement of AGP's facilities. The number of detainees was tracked regularly, and as capacities were reached, detainees were cross-leveled between detention facilities. LTG Sanchez was aware that additional MP units were not available, and the Army was using ILO units to replace MP companies in the ITO. As such, his decision to not initiate a request to higher HQs for additional MP forces was reasonable, and instead, BG Karpinski was encouraged to internally redistribute her own resources. Additionally, in December 2003, MPs from the 1st AD were moved to AGP to augment the MP force.

(d) (U) In conclusion, the evidence established that the detention mission in Iraq was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. LTG Sanchez' actions with respect to anticipating and developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

(6) (U) **With respect to LTG Sanchez' actions regarding BG Karpinski's leadership:** The Schlesinger Report stated that LTG Sanchez should have taken more forceful action in November 2003 when he fully comprehended the depths of the leadership problem at AGP. His apparent attempt to mentor BG Karpinski was insufficient in a combat zone in the midst of a serious and growing insurgency.

(a) (U) The evidence indicated that by November 2003, LTG Sanchez was seriously concerned about the leadership of the 800th MP BDE at AGP, and he took appropriate action. During his visit to AGP in November 2003, he noted the lack of improvement in the defense preparations by the 320th MP BN and the 800th MP BDE and their failure to follow his previous directives. As a result, he directed that COL Pappas, as the senior CDR present and, in several witnesses' view, a more competent leader, be the FOB CDR in charge of force protection at AGP. He counseled BG Karpinski during this visit regarding his concerns about the lack of force protection improvements, and told her she needed to take all actions commensurate with her rank and authority to take care of her Soldiers, and that if she did not receive the support she needed from his staff, to raise the issue to his level. LTG Sanchez' counsel to BG Karpinski was appropriate and consistent with the unsatisfactory conditions that LTG Sanchez observed at AGP. In January 2004, LTG Sanchez issued BG Karpinski a memorandum of admonishment concerning the reported detainee abuse, and other incidents, which reflected a lack of clear standards, proficiency, and leadership within the BDE.

(b) (U) During MG Ryder's out-brief on 6 November 2003, LTG Sanchez asked MG Ryder for his considered opinion on BG Karpinski's leadership. MG Ryder indicated that he thought BG Karpinski was a weak leader, but that his team provided her command the requisite tools and resources she needed to order to succeed pending their scheduled redeployment in early 2004. The evidence indicated that LTG Sanchez considered seeking BG Karpinski's relief, but decided that since her unit had just undergone a thorough, constructive assessment by MG Ryder's team of detention experts, he should provide her an opportunity to improve her command. Additionally, had he chosen to remove BG Karpinski from command, the evidence established that there were no readily available backfills. MG Ryder had informed LTG Sanchez that there were no available MP GOs in the AC or RC, and the number of MP COLs was very limited. Replacement units for the 800th MP BDE were scheduled to start arriving in January 2004, and the CDRs of those units were reputed to be competent officers. LTG Sanchez believed that BG Karpinski was provided the information she needed to successfully accomplish the detention mission, and, given that he did not have a viable replacement, justifiably made the decision to retain her in command. LTG Sanchez' decision to retain BG Karpinski as the CDR, 800th MP BDE, was a considered one, and was within his authority as the CG, CJTF-7. As such, his decision did not violate an Army standard.

(7) (U) **With respect to the categorization of detainees by CJTF-7:** The Schlesinger Report stated that CJTF-7 determined that some of the detainees held in Iraq were to be categorized as unlawful combatants. Despite lacking specific authorization to operate beyond the confines of the GCs, CJTF-7 nonetheless determined it was within their command discretion to classify as unlawful combatants individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President and extended it in Iraq to those who were not protected as combatants under the GCs. CJTF-7 had no means of discriminating detainees among the various categories of those protected under the Geneva Conventions and those unlawful combatants who were not.

(a) (U) The evidence indicated that LTG Sanchez and other leaders in CJTF-7 understood the difference between the categorization of a detainee as an enemy combatant and an unlawful combatant, and as such, applied the proper categorization to the detainees held at AGP. (b)(7)(D) (b)(7)(D) The term "unlawful combatant" applied to a category of terrorist to whom the GCs did not apply as a matter of law, such as those detainees held at GTMO. Unlawful combatants were persons who took up arms against occupation forces and did not meet the criteria for EPW status and, accordingly, immunity from prosecution for war-like acts. CJTF-7's position was that unlawful combatants were nonetheless protected persons under the fourth GC and were afforded the protected status of civilian security detainee. This allowed internees to be prosecuted before the Central Criminal Court of Iraq for attacks on coalition forces, but still afforded them protections under the GCs.

(b) (U) The term "unlawful combatant" was never adopted by CJTF-7 because the leadership understood that the GCs were fully applicable to Iraq. The Schlesinger Panel apparently confused the terms and contended that CJTF-7 adopted the unlawful combatant approach. This course of action was rejected by CJTF-7 because the GCs were fully applicable to Iraq. As such, there was no credible evidence that LTG Sanchez improperly permitted the incorrect categorization of detainees in Iraq as "unlawful combatants" who were not subject to the GCs.

d. (U) The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that LTG Sanchez was not willfully derelict,

negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations.

(1) (U) Multiple senior leaders, either in LTG Sanchez' chain of command or in positions to make such judgments, unanimously testified to the overwhelming responsibilities placed on LTG Sanchez and CJTF-7 and to his admirable performance of duty in a resource-constrained and hazardous combat theater. No senior leader interviewed believed that LTG Sanchez was derelict in his duties. On the contrary, the Jones Report indicated that the CJTF-7 staff performed above expectations in the overall scheme of OIF, in a "tremendously horrid environment" while confronting "a faceless enemy whose hatred of the US knew no limits." The report further stated that had the pace of combat operations and the support to the CPA not been so overwhelming, the CJTF-7 staff might have been able to provide additional oversight to interrogation operations at AGP. LTG Sanchez had a huge scope of responsibility with respect to the support of the CPA, the building of an Iraqi security force, and the reconstruction of Iraq, but he also had to focus on the defeat of the insurgency that was killing his Soldiers. When the complexity, circumstances, and scope of the insurgency were considered, the evidence indicated LTG Sanchez exceeded expectations. His accomplishments were especially noteworthy given the under-resourced and inexperienced staffs in CJTF-7 and CPA with which LTG Sanchez had to work. (b)(7)(D) (b)(7)(D) LTG Sanchez reported it quickly once it was brought to his attention because he recognized that it was a major problem, and promptly initiated an investigation. When the Taguba investigation was complete, LTG Sanchez took the additional step of requesting a second investigation, which was ultimately completed by GEN Kern, to thoroughly and completely investigate all the abuse incidents at AGP. There was no effort by LTG Sanchez or his staff to minimize, hide, or ignore the situation. The evidence established that LTG Sanchez accepted responsibility for his command, held those within his command responsible for their actions, and directed investigations to identify failures and fix responsibility.

(2) (U) There was no evidence that LTG Sanchez was derelict in his duties with respect to detention and interrogation operations through willfulness, neglect, or culpable inefficiency. On the contrary, the evidence established that LTG Sanchez consistently and pro-actively took appropriate action at the strategic level of leadership regarding the oversight, resourcing, and planning for both missions. There was no evidence of negligence, culpable inefficiency, or willful dereliction. LTG Sanchez recognized early on that there were shortfalls in the detention and interrogation missions, and immediately requested assistance, resulting in the Ryder and Miller team visits and the subsequent deployment of follow-on training and assistance teams. LTG Sanchez pushed for a greater fill of GOs on the staff to provide the level of authority and experience needed to operate at a CJTF level, and received GOs for

several key staff positions. He requested a GO for detention operations in recognition of the challenges that remained in that area, but a GO did not arrive until March-April 2004. When resourcing shortcomings at AGP were brought to his attention, he declared AGP an enduring base and additional funds and engineering effort were directed to the prison. He personally inspected the force protection preparations at AGP, and upon determining that the defense measures were unsatisfactory, immediately made the decision to change the TACON relationship at AGP to ensure force protection improvements were made. He emphasized the humane treatment of Iraqi citizens and the applicability of the GCs in multiple FRAGOs and during his personal visit with the interrogators at AGP.

(3) By all accounts, LTG Sanchez was an involved leader who took the time to visit his units and Soldiers and readily directed corrective action when he observed problems or when issues were brought to his attention. While certain alternative actions, in hindsight, might have been more effective or beneficial, LTG Sanchez' actions, in the context of the environment in which they occurred, were not willfully derelict, negligent, or culpably inefficient. Rather, the austere environment, lack of staff, and growth of responsibilities all created obstacles that LTG Sanchez and the CJTF-7 staff successfully overcame through, by all accounts, heroic efforts. As such, LTG Sanchez' actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, LTG Sanchez' efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

2. (U) **Allegation #2: LTG Sanchez improperly communicated interrogation policies.**

a. (U) AR 600-100 stated that all leaders were responsible for effectively communicating vision, purpose, and direction. General officers at the strategic levels of the Army were responsible for creating policies, structures, and programs. They affected all members junior to them by formulating policies that supported and sustained Army values, and by ensuring that procedures developed at lower levels further supported Army policy and values. (EXHIBIT B-2)

b. (U) The allegation that LTG Sanchez improperly communicated interrogation policy was derived from the following statements in the reports reviewed for this investigation:

(1) (U) From the Jones Report: Policy memorandum promulgated by LTG Sanchez led indirectly to some of the non-violent and non-sexual abuses.

Interrogation technique memorandums did not adequately set forth the limits on interrogation techniques. Existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned in order to gain intelligence. Lack of consistent policy and command oversight regarding interrogation techniques, coupled with changing policies, contributed to the confusion concerning what techniques could be used, which required higher level approval, and what limits applied to permitted techniques. (EXHIBIT C-25)

(2) (U) From the Schlesinger Report: The policy memoranda promulgated at the CJTF-7 level allowed for the interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (EXHIBIT C-26)

c. (U) **With respect to the development of the September and October 2003 CJTF-7 interrogation policies:**

(1) (U) The evidence established that the development of CJTF-7 interrogation policy was part of a broad, deliberate and iterative effort by LTG Sanchez to meet recognized needs in detention and interrogation operations. As cited previously, AGP was re-opened by the CPA in May 2003 to begin to reestablish the Iraqi prison system. As CJTF-7 became increasingly involved in counter-insurgency operations, AGP was also used for the detention of civilian security detainees suspected to be involved in the insurgency. MI units were assigned to AGP to establish an initial interrogations capacity. MG Fast arrived at CJTF-7 and was charged to develop an operational intelligence capability for CJTF-7 and the CPA. In August 2003, CJTF-7 requested the MG Ryder assessment, a strategic look at both military and Iraqi national detention systems. At about this time, LTG Sanchez determined that the current interrogation efforts were not producing the actionable intelligence needed to fight the insurgency. He was concerned about the training and experience level of the interrogators and the lack of a theater-level interrogation policy. Early in September 2003, MG G. Miller visited the ITO to provide recommendations in support of improved operational interrogation capabilities.

(2) During his out-brief to LTG Sanchez in September 2003, MG G. Miller recommended that CJTF-7 develop interrogation authorities and promulgate a memorandum because the interrogators were unsure of their authorities. LTG Sanchez agreed, and directed COL Warren to take the lead on the development of a CJTF-7 interrogation policy. A working group consisting of SJA officers and MI personnel from the 205th MI BDE drafted the interrogation policy. The 14 September 2003 policy drew heavily from the GWOT policy, the 1987 version of FM 34-52, the prior experience of MI

personnel in Afghanistan, and it included several safeguards. Although the evidence indicated that the policy was not staffed with MG Fast, mitigating circumstances included her absence during the period the policy was drafted, the limitations of internal secure communications within CJTF-7, the physical dispersion of the staff, and the urgency of the tasking. The final policy was reviewed by COL Warren, whom LTG Sanchez trusted as an acknowledged Army expert on operational law. COL Warren personally briefed LTG Sanchez on the policy, and after he was assured the policy adequately defined the interrogation authorities while complying with the GCs, LTG Sanchez signed the memorandum. Based on his determination that the need for an interrogation policy was urgent, LTG Sanchez made the conscious decision to implement the 14 September 2003 policy while simultaneously sending it to CENTCOM for comment.

(3) (U) The CENTCOM SJA was concerned that while the interrogation techniques were not illegal per se, the policy should more closely follow FM 34-52 and be more restrictive. As a result, the policy was modified to include only techniques found in the 1987 version of FM 34-52, plus segregation, and additional restrictions were applied. The 12 October 2003 policy was disseminated through the normal FRAGO process, and copies were distributed to unit LNOs on the CJTF-7 staff. The CENTCOM SJA had no objections to the October policy memorandum. MG Fast recalled reviewing the policies later and had no objections. She was aware that the SJA had determined they were legally sufficient with respect to the GCs.

(4) (U) Internal CJTF-7 staffing of the interrogation policies was not ideal and this was influenced by several factors. As cited previously, interrogation experience and expertise in CJTF-7 resided in the 205th MI BDE. Operational law expertise lay with COL Warren, the SJA. MG Fast, the C-2, was not in theater during preparation of the 14 September 2003 policy. (b)(7)(D) (b)(7)(D) (b)(7)(D) Interrogation expertise in the 205th MI BDE was greater than in her C-2 organization. The evidence indicated that limitations of internal secure communications within CJTF-7, the physical dispersion of the staff, and the urgency of the requirement also hampered traditional staffing procedures. In retrospect, while a broader staffing of the policy with MG Fast was desirable, and could have potentially improved clarity, the evidence indicated such staffing would not have significantly affected the substance of the policy.

(5) (U) The evidence established that the development of the CJTF-7 interrogation policy was a deliberate, iterative process that involved appropriately knowledgeable personnel in the 205th MI BDE, who would be implementing the policy, and the SJAs of CJTF-7 and CENTCOM. The absence of staffing with MG Fast was a

potential shortcoming, although mitigated by urgent and difficult circumstances. In light of LTG Sanchez' concern over the need for a theater interrogation authority to define the interrogators' limits, a failure to publish such policy would have potentially been a far greater shortcoming. Additionally, CJTF-7's publication of two different interrogation policies within a month of each other was not improper, nor did that render the policies inconsistent. Although the policy changed significantly from September to October, those changes were in response to identified CENTCOM concerns that were then considered and accepted by the SJA, CJTF-7. Both policies were rooted in FM 34-52, and both required that all interrogations be conducted in accordance with the GCs. As such, the policies' fundamental focus was not inconsistent from one version to the next.

d. (U) **With respect to the adequacy of the September and October 2003 CJTF-7 interrogation policies:**

(1) (U) The Jones Report stated that the CJTF-7 interrogation policies were confusing. The confusion contributed to the belief that additional techniques were authorized and the policies did not adequately set forth the limits on interrogation techniques. The Schlesinger Report stated interrogation policies were inadequate or deficient, and techniques for GTMO migrated to Iraq, where they were neither limited nor safeguarded.

(2) (U) The Jones Report found that some personnel at AGP were confused regarding which interrogation techniques were authorized for use, in spite of LTG Sanchez' attempt to specify a range of interrogation techniques and safeguards. The Jones Report further stated that misinterpretation of CJTF-7 policy memorandums led to some of the non-violent and non-sexual abuses at AGP. The Kern Report cited portions of the September and October 2003 policies that, in the report author's view, were confusing. The portions pertained to the concept of the interrogator's control of all aspects of the interrogation, use of military working dogs, and isolation vs. segregation. However, both MG Fast and LTG Sanchez personally visited with the interrogators in October 2003, inquired into the interrogators' understanding of the policy, and stressed the importance of conducting interrogations within the constraints of the GCs. Neither noted any confusion among the interrogators with whom they met, nor were questions raised regarding the policies. The Church Report found that even if interrogators were confused by the issuance of multiple interrogation policies, none of the approved policies would have permitted the types of abuses that occurred. There was no evidence that clarification of the policies was ever sought by anyone in the 205th MI BDE that may have resulted in a subsequent review and modification of the policy.

(3) (U) Additionally, the 14 September 2003 policy was an amalgam of interrogation techniques already in use at GTMO and Afghanistan. While this "migration" of interrogation techniques was criticized by the Schlesinger Report, it was not unreasonable for the drafters of the policies to incorporate techniques used successfully in other theaters as they attempted to identify all current effective techniques. It was noted that the FM used by the drafters was 16 years old at the time, and LTG Sanchez already determined that interrogations using only techniques specified by the FM were not producing the intelligence needed to fight the growing insurgency. MG G. Miller confirmed this shortcoming during his assessment visit, and provided the GWOT memorandum as a resource for the development of a CJTF-7 policy with the caveat that it required modification for the ITO because the GCs applied. These non-FM techniques were not specifically prohibited for use in Iraq, as was suggested by some of the reports reviewed. The GWOT memorandum was addressed only to the CDR, SOUTHCOM. No DOD or CENTCOM guidance existed that specified or limited interrogation authorities for any other theater. As such, it was not improper for LTG Sanchez to include techniques previously approved for other theaters in his interrogation policy for the ITO.

(4) (U) The evidence established that both the September and October 2003 policies included adequate limits and safeguards for the conduct of interrogations. The PSI investigating officer found that neither policy violated the GCs. Additionally, the Church Report found no direct or indirect link between interrogation policy and detainee abuse. The Church Report further found that much of the substantiated abuse was unconnected to any interrogation technique or policy, as it was committed by personnel who were not MI interrogators and who almost certainly did not know the details of the policies. Both CJTF-7 policies required that interrogators conduct interrogations in accordance with the GCs and detailed safeguards. Both policies prescribed specific techniques authorized for use and required personal approval by LTG Sanchez for the use of any technique not listed in the policy. The C-2 and SJA were required to review any written request for use of a non-specified technique prior to forwarding to LTG Sanchez for approval. No requests for additional techniques were ever sent to LTG Sanchez. Both policies required the development of specific interrogation plans, trained interrogators, and appropriate supervision during execution.

(5) (U) A proper analysis of the CJTF-7 interrogation policies cannot be conducted without a consideration of the responsibilities of leaders below LTG Sanchez' level. As the CG, CJTF-7, LTG Sanchez operated at the strategic level of leadership. AR 600-100 stated that all leaders were responsible for effectively communicating vision, purpose, and direction. GOs at the strategic level were responsible for creating policies, structures, and programs that supported and sustained Army values, and for ensuring that procedures developed at lower levels further supported Army policy and

values. By promulgating the CJTF-7 interrogation policies, LTG Sanchez properly communicated explicit interrogation authorities for implementation by the 205th MI BDE and provided the overarching structure by which the 205th MI BDE would conduct interrogation operations. These policies provided the guidance COL Pappas, as a senior leader, was to use to develop the specific implementation guidance and standard operating procedures for the execution of the interrogation policies. In turn, MI leaders at the direct level of leadership in the JIDC were responsible for developing interrogation plans, training their interrogators, and supervising the execution of interrogations in accordance with the CJTF-7 policies and, accordingly, the GCs. The Jones Report found that leaders at AGP failed to supervise their units or provide direct oversight of the interrogation mission. This failure of leadership occurred at the 205th MI BDE level or below. It was not attributable to LTG Sanchez, who, in fact, acted properly as a strategic leader by communicating direction and guidance via the CJTF-7 interrogation policies. These policies ultimately required interrogations be conducted in accordance with the GCs. In hindsight, the policies could have been written in a more clear fashion. However, LTG Sanchez' decisions to promulgate interrogation policies in the absence of any other guidance, revise the policies when provided valid constructive concerns, and disseminate the policies to the senior MI CDR in the ITO for implementation, were appropriate and properly within his scope of responsibilities as a strategic leader. As such, his actions did not violate an Army standard.

D3

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Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was taken on 13 September, 2004 at the Pentagon, Washington, DC between the hours of 1310 and 1415
By (b)(6)-4 & (b)(7)(C)-4 and Lieutenant Colonel (b)(6)-4 & (b)(7)(C)-4
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1310. This inquiry is directed by The Inspector General of the Army.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to FOIA. Since I'll ask you to provided your Social Security Number to help identify you as the persons testifying I've previously provided you with an explanation of the Privacy Act.

[U] Did you understand it, Sir?

[U] MG FAY: Yes, I did,

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] (b)(6)-2 & (b)(7)(C)-2 Do you have any questions before we begin, Sir?

[U] MG FAY: I do not.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [Major General George R. Fay was sworn and testified under oath as follows:]

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you may lower your hand. For the record, please your name?

[U] A. George R. Fay.

[U] Q. Your rank and component?

[U] A. Major General, united States Army Reserve.

[U] Q. Your current position and organization?

[U] A. I'm the Assistant Deputy Chief of Staff, G2, , Army Staff.

[U] Q. Your Social Security Number, and Sir, this is voluntary.

[U] A. (b)(6)-4 & (b)(7)(C)-4

[U] Q. And an address either home or office keeping in mind that the return address on any correspondence from this office will indicate that it is from the Department of the Army Inspector General.

[U] A. Okay, (b)(6)-4 & (b)(7)(C)-4 (b)(6)-4 & (b)(7)(C)-4

[U] Q. All right, Sir, and a phone number?

[U] A. (b)(6)-4 & (b)(7)(C)-4

[U] Q. Yes, Sir. And a phone number either home or office?

[U] A. Office phone number is Area Code (703) 693-5589.

[U] Q. All right, Sir, thank you. All right, we'll go ahead and get into the questions now. As I indicated to you before, the questions that we have for you today pertain to the findings and conclusions and evidence that were cited in what I will refer to as the Fay Report. It is also called the Kern Report depending on who you ask. So these questions will focus on those particular findings.

[U] A. Since you're asking me I'll call it the Fay Report.

[U] Q. Yes, Sir, it sounds good to me.

[U] A. Okay.

[U] Q. Okay. Sir, one of the findings that you made in the report was that there was a lack of clear command and control of detainee operations at the CJTF-7 level. And by the way, Sir, I have brought the report with me so that if at any report we need to refer to it we can.

Sir, in your view who in CJTF-7 at that time was responsible overall for detainee operations prior to the assignment of Major General Geoff Miller?

[U] A. That was the problem.

[U] Q. Yes, Sir.

[U] A. Is that there was a real confusion as to who was in charge of detainee operation and that was our finding is that there was no clearly one person in charge. It was a shared responsibility amongst a number of staff elements and staff persons and commanders. And because it was so shared because everybody owned it nobody owned it.

[U] Q. Can you cite some of the folks that had a shared responsibility?

[U] A. Yes, well obviously first starting with the overall responsibility being, , Lieutenant General Sanchez as the CJTF-7 Commander, but below him there was the—, Deputy Commander who was—, Major General Wojdakowski, , and he had some responsibilities because he had both the 800th MP Brigade Commander and the Army Military Intelligence Brigade the 203rd?

[U] Q. Fifth.

[U] A. The 205th MI Brigade Commander both reporting to him. , but quite frankly Major General Wojdakowski was mostly involved with the logistics questions and running the huge numbers of logistics issues that concerned CJTF-7 at that time. And although he was somewhat involved with the detainee operations, I wouldn't say that he was focused on that. At least not based on my investigation.

[U] Q. Yes, Sir.

[U] A. And he was—and from that aspect he was even more involved with the MP Detention portions than he was the interrogation

portion. I think when it came to the interrogation area he just relied very heavily on Colonel Pappas as the Commander of the 205th MI Brigade.

[U] Q. Who he rated as well?

[U] A. Who he rated as well. He did not rate General Karpinski who was the Commander of the 800th MP Brigade. Although she thought that he was going to be rating her. But anyway, that—and I cover all that in the report.

[U] Q. Right.

[U] A. It's very—it was very confusing.

[U] Q. Yes, Sir.

[U] A. Additionally you had the Provost Marshal of CJTF-7 who had some responsibilities, but where they began and where they ended no one was quite sure. You had the CJTF-7 C-2 Staff, that would have been Colonel (b)(6)-2 & (b)(7)(C)-2 in the beginning and then it shifted to Major—well first it was Brigadier General and then Major General Fast, after Colonel (b)(6)-2 & (b)(7)(C)-2 So—and they had some responsibility relative to the interrogation operations and also the release boards, and then you had the Staff Judge Advocate that was providing legal advice and assistance not only to General Sanchez but each of those staff elements that I mentioned.

[U] So they were all involved. And the reality was because there were so many people involved it wasn't clear. It wasn't a focused issue , until General Miller was named and he did bring it under focus.

[U] How about Major General Tom Miller, Sir, the C-3, did he have a role that you saw?

[U] Well actually, when I was doing my investigation that General Fast informed me that at one point in time General Sanchez at a meeting became so frustrated with the whole detention operations issues, interrogations included with that, that he said, "Who here is responsible for this?" referring to his whole staff. And he then—General Sanchez —turned to General Tom Miller and said, "You're the three. You're responsible. " Now, General Fast had first believed at that meeting that occurred in October. General Miller when I interviewed him said, no, no, that did occur but it occurred much latter and in a time period that he thought, as I recall, was some time around February of 2004 when that meeting occurred.

[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

That in fact it did occur but it didn't happen until the January-February timeframe rather than the earlier timeframe.

[U] In your view, Sir, should a single person have been overall in charge at that time? Was that something doctrinally that they should have done?

[U] It as not doctrine and of course that's another one of the issues that we had identified. That the doctrine is silent as to who has responsibilities with regard to detainee operations. My opinion is that we should doctrinally address that issue and it is a shortcoming. And to this day we do not have a doctrinal answer. In other words, when General Miller leaves, you know, when he rotates out of Iraq, what's what the next solution? Show me a doctrine where his position exists. It does not exist in doctrine.

[U] All right, Sir. So in your view, Sir, did the method by which CJFT-7 control detainee operations prior to Geoff Miller's arrival violate any Army standard or doctrine? Perhaps not since there was no doctrine?

[U] There wasn't. There was no violation of Army doctrine in that regard I am aware of.

[U] Then given that there was no doctrine, apparently not any Army standard regarding detainee operations in the CJTF environment, what do you think General Sanchez should have done? Should he have recognized that he had a shortfall there? What are your thoughts on that, Sir?

[U] Yeah, I believe that there should have been an earlier recognition of the problems that existed. That the issues that came up at Abu Ghraib had some predecessors to it. This was not the first time that issues relative to detainee operations had arisen at the CJTF-7 level. It was known that these were issues. There were in my opinion enough issues early on. Earlier on during this process it was identified that it should have been recognized earlier and should have received more focused attention earlier than it did. It's easy now to second-guess and I'm not—I understand all of the pressures and the war fighting issues that he was facing, which is why I think we were very careful not to be—at least we tried not to be— too criticizing in our opinions because you've got to go back to the fact that the CJTF-7 operation was, in my opinion, a pick-up team. We put that together. 'We' the United States put that together in a very short time period and it was never fully staffed and never fully organized and we eventually recognized the shortfalls of doing it that way, which now why we now have a Four Star Command there.

[U] Q . Right.

[U] A. With the Operational Three Star Command under that. This is only one of the reasons why we did this, but to place all the burden on General Sanchez I do not believe it is fair. I believe that it goes higher than General Sanchez. That 'we' as a country under resourced and under appreciated what we were going to be facing when we arrived in Iraq. And we were optimistic, in our opinion of the amount of resistance we were going to face. And when it turned into an insurgency we didn't react fast enough but even if we had reacted with lightning speed it still would have been too late. Which you know we should have been more pessimistic in our initial analysis of what Phase IV of the operation was going to present to us.

[U] Q. So let me ask you the tough question here, Sir, and you've sort of laid it out already but was General Sanchez's or for that matter General Wojdakowski failure to initially recognize that there was a lack of clear command and control in detainee operations at the CJTF-7 level. Was his failure to recognize this in your view in anyway improper or negligent?

[U] A. No.

[U] Q. –obviously in these circumstances?

[U] A. No, I think that it wasn't improper. It wasn't negligent. It was a fact that occurred. But given the view of the entire situation, the fact that this was an under resourced operation that it changed very quickly from a combat operation to an insurgency and they were left with a force that was not put together to fight an insurgency. They were reacting to the situation as they saw it. I don't believe it's negligence.

[U] Q. Okay, Sir, going back to General Miller, Tom Miller.

[U] A. Yes.

[U] Q. As when he raised his hand at some point saying that he was in charge. Do you recall during your look whether General Karpinski received any guidance concerning detention operations from General Miller?

[U] A. I don't ever remember—I interviewed General Karpinski for seven and a half hours. She never to my recollection mentioned General Tom Miller.

[U] Q. Right.

[U] A. Mentioned frequently General Geoff Miller.

[U] Q. Right.

[U] A. And his visits but never mentioned Tom Miller.

[U] Q. Right.

[U] A. So if there was an interaction there, it wasn't very significant.

[U] Q. Okay.

[U] A. Most of her interactions were with General Wojdakowski. And she did tell me about a lot of her interactions and General Wojdakowski told me about a lot of interactions with General Karpinski.

[U] Q. Right. Okay, Sir. And then Colonel (b)(6)-2 & (b)(7)(C)-2 I believe was the PMO at the time. Any indication that she received much guidance from him?

[U] A. No.

[U] Q. Or the same thing?

[U] A. The same thing. No—no indications that she received much guidance from him, and I did not interview that Colonel.

[U] Q. I noted that.

[U] A. But you know the information that I can recall was that he was not a very involved player in detainee operations. He was doing the other traditional Provost Marshal stuff and I believe that Command looked to General Karpinski to be the detainee operations person.

[U] Q. All right, Sir. Another finding that was in your report was leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Sir, do you recall to which leaders specifically failed to take steps to effectively manage that pressure?

[U]A. Yeah, there I'm talking about the 205th and the JIDC management. So we're talking about Colonel Pappas, we're talking about Lieutenant Colonel Jordan; talking about Captain (b)(6)-2 & (b)(7)(C)-2 We're talking about Major (b)(6)-2 & (b)(7)(C)-2 and there's another Major who was also an operations officer——

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. Huh? (b)(6)-2 & (b)(7)(C)-2 No, (b)(6)-2 & (b)(7)(C)-2 was on the——

[U] Q. The 800th?

[U] A. No, he was on the staff of Colonel Pappas. But he wasn't involved with—well to some extent involved but he was running the operations for the whole Brigade.

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. (b)(6)-2 & (b)(7)(C)-2 That was the one, yeah.

[U] Q. One of those common names?

[U] A. That's right. That's right. It was Major (b)(6)-2 & (b)(7)(C)-2 that I was referring to. So that's the leadership that we were—that I was referring to when I made those comments.

[U] Q. So you weren't referring to General Sanchez or Fast or Wojdakowski?

[U] A. No, because it wasn't their jobs to protect those Soldiers at that level from that pressure. It was in my opinion the job of that unit and that unit Command structure.

[U] Q. Given that, Sir, in your view, what pressures did General Sanchez, if any, place on the intelligence community---

[U] A. Oh significant and he testified to General Jones that he did that. I mean General Sanchez was rightly frustrated by the situation. I mean, the situation quickly turned into a insurgency and we didn't have an adequate amount of information to find out who the insurgents were or where they operating, how they were operating, all the things that we need out of a unit, Human Intelligence structure, which of course we don't have a very robust unit intelligence structure. The Army took down most of that in the 1990s.

[U] Q. Okay, Sir.

[U] A. So we had limited assets to get him the information he needed but he was expressing those frustrations and putting that degree of pressure on Colonel Pappas and the other members of the 205th and his entire intelligence community. I don't think that was misplaced. I don't think it was wrong to do that. That's what 'we' in the Intel Community should and do expect from our Commanders. It's how that pressure is managed that's the important issue.

[U] Q. And you placed the responsibility for that management at Colonel Pappas' level and then down at that point?

[U] A. Yes.

[U] Q. All right, Sir. Another finding that you made, there was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits, Red Cross visits. ICRC recommendations were ignored by MI/MP/ and CJTF-7 personnel. Sir, can you tell us who specifically were the MI/MP and CJTF-7 personnel that ignored these ICRC recommendations?

[U] A. Well I can tell you every one that saw the ICRC recommendations.

[U] Q. Okay. If you could give us a list of them.

[U] A. And ignored them. So Colonel Pappas—

[U] Q. Okay.

[ ] A. Lieutenant Colonel Jordan. I'm not sure that Captain (b)(6)-2 & (b)(7)(C)-2 saw them but she knew but she knew about them. General Karpinski. I don't know the members of General Karpinski's staff but there were people on her staff that saw them.

[U] Q. And her lawyer I believe saw them?

[ ] A. Her lawyer saw them and the Staff Judge Advocate Office at the CJTF-7 saw them. All the way up to Colonel—

[U] Q. Warren?

[U] A. Colonel Warren who was the CJTF-7, , Staff Judge Advocate.

[U] Q. Sir, in your view whose responsibility was it to establish such procedures and responsibility for dealing with ICRC visits?

[U] A. Again there is no clear doctrine as to who should. What staff element would have primacy. My personal opinion is that the Staff Judge Advocate should have primacy on establishing how do we deal with the International Committee of the Red Cross and their visits and how should they be handled. But that's just my opinion. You can't go to doctrine and find a specific responsibility for that.

[U] Q. All right, Sir, did you come across any evidence that General Fast or General Wojdakowski or General Sanchez were aware of the ICRC visits?

[U] A. I know that General Fast definitely was not until after the fact, because I specifically remember my conversations with her on that subject. I also know that General Sanchez did not know because Colonel Warren told me he didn't bring him—he did not bring these issues to his attention. And I'm sorry what was the other name that you asked about?

[U] Q. Wojdakowski, Sir. Major General Wojdakowski.

[U] A. I can't answer that. I don't remember whether General Wojdakowski knew or didn't know so I don't know.

[U] Q. Sir, did you come across anyone on the CJ-2 staff that was made aware of the ICRC? I mean you mentioned Colonel Pappas, you mentioned Colonel Jordan. They were in the 205th.

[U] A. Yeah.

[U] Q. Colonel Jordan of course was murky. Did anyone on the CJ-2 staff, Colonel (b)(6)-2 & (b)(7)(C)-2 perhaps or—

[U] A. No. I do not remember. That—I know that General Fast didn't know about it. Whether or not (b)(6)-2 & (b)(7)(C)-2 did because he then became her Deputy when she showed up. I don't know whether he saw them or he didn't see them.

[U] Q. You don't recall that, Sir. Sir, do you recall with whom General Karpinski's response to the ICRC report was staffed? I know that the Major, the Australian Major, on the SJA staff was the primary drafter of the response. Do you recall who he routed that through?

[U] A. Well, I know that Colonel Warren knew about the response.

[U] Q. Right.

[U] A. I'm not sure at what stage he saw the response but at some point, he saw the response. I don't know if he saw the final draft or what, but I know that he at some point in time saw some part of the response. I do not know who else besides the Australian Major, Colonel Warren, and would have been whoever the SJA person was on Karpinski's staff.

[U] Q. Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2 maybe was his name?

[U] A. I believe he was mentioned by Colonel—by General Karpinski to me as being a person she had a discussion with.

[U] Q. Yes. All right, Sir. We discussed the folks that ignored the ICRC recommendations. To what do you attribute this? Why did they ignore them?

[U] A. It was so unbelievable, as many people told me that they were laughable and in fact they did received a lot—, you know, humorous comments about them. When it was read by people no one could believe that they were true. The stories that were in there which ultimately did turn out to be true, no one that saw them that had direct knowledge about what was going on in that specific cell block could believe that American Soldiers would have been doing that —especially the woman's underwear issue because it was well known, especially at Abu Ghraib, that the clothing was unobtainable. That they were really jumping through hoops to get any type of clothing for the detainees at Abu Ghraib at that period in time. And so for this statement to say not only were they wearing—forced to wear underwear but they were forced to wear women's underwear. It was like well how could you get women's underwear. We can't even get regular clothes let alone women's underwear. But as it turned out, it was true but nobody believed it. Because it just was an unbelievable story.

[U] Q. And as a result, the allegations were not investigated by anyone?

[U] A. Correct.

[U] Q. And, Sir, was this failure to investigate— who would you place blame on? Who do you think should have investigated?

[U] A. I believe that we should—we, all of us that are involved with the International Committee of the Red Cross should give them more credence than we have traditionally given them. They are an independent fact-finding neutral party. So when they are presenting to us allegations, even if we believe those allegations to be false, I believe that we have a duty to look into them. It would be the same thing as what we do with the IG. I mean I know the IG looks into all allegations no matter how outrageous they would seem at first.

[U] Q. Right.

[U] A. We should have that same attitude towards the International Committee of the Red Cross.

[U] Q. And to the best of your knowledge the Army , does not have a standard that would indicate such?

[U] A. Correct, in fact, I would say the prevailing attitude is of the Red Cross. It's, those guys are always looking at the opposition side in protecting the human rights. And things that we are leery or—well, not leery but that we believe are questionable when they present them to us. Because they look upon as advocates for

the adversaries more than independent neutral parties.

[U] Q. Right. So, Sir, were any of the people involved in either seeing the ICRC report or involved in drafting its response, were any of these folks in your view in any way negligent for either failing to report it to higher or for not looking into the allegations further, even though technically we don't have an Army standard that says you have to?

[U] A. My definition of negligent is where a reasonably prudent person would do in like or similar circumstances. I do not believe that they violated that standard because when you looked at them without any independent knowledge of the truth as it came out, it would be reasonable to say how could that ever happen.

[U] Q. But in retrospect you would now say they should be investigated regardless of how outrageous because in fact they were credible.

[U] A. Because in fact they were credible. Right.

[U] Q. Yes, Sir. Okay.

[U] A. Yeah. But I can't criticize them for not believing it.

[U] Q. Right. All right, Sir. On to the next finding, Sir. Interrogation technique memo did not adequately set forth the limits on interrogation techniques. Misinterpretation of CTJF-7 policy memo led to some of the abuses at Abu Ghraib but did not contribute to the violent or sexual abuses. And of course, I am referring to the 14 September 2003 memo and the 12 October 2003 memo that General Sanchez signed.

[U] A. Yes.

[U] Q. , Sir, in your view did the CJTF-7 interrogation policies contribute to any of these abuses, and if so, was it direct or indirect?

[U] A. Well let's be—if I can, I want to be-make sure we're clear on which abuses we're referring to here.

[U] Q. Yes, Sir, let's start with that.

[U] A. Okay, there's no way that any documents that were produced by anybody contributed to the sexual or physical abuses that occurred at Abu Ghraib.

[U] Q. Okay.

[U] A. Those were clearly violations of laws and regulations that those that participated in them knew that what they were doing were wrong and knew what they were doing violated Army laws and regulations. That's based on my investigation and that's what I believe.

[U] Q. Yes, Sir.

[U] A. That's one category. The other category or the other abuses, the non-sexual and non-violent abuses that occurred—–

[U] Q. Can you give some example, Sir?

[U] A. Yes, such things as the use of nudity. The interrogators were using nudity as a technique in order to humiliate the detainees in order to encourage them to speak. They believed that they—the interrogators believed—they had authority to perform that specific technique and make those detainees naked as part of the interrogation process. They didn't have that authority. They were wrong when they believed they had that authority.

[U] Q. And, Sir, why did they believe they had that authority?

[U] A. You'll have to go back through that whole long string of DoD, Army and Special Operations Directives that existed dating way back to the point where the War of Terrorism began. So you need to go back originally to the first time you see nudity as an issue is the—, the Secretary of Defense Memo that was issued in December of 2002, which listed all sorts of techniques that could be used at Guantánamo, and one of those was removal of clothing. Now that was taken away six weeks later but not everybody got the memo that it was taken away. So, the mindset had been created in the interrogation world that that was an acceptable technique. And in fact we interviewed people who served at Guantánamo that told us that well removal of clothing is a technique that we have the authority to use in Guantánamo we just don't use it.

[U] Now, they were wrong. They didn't have that authority at the point in time that is in question here. But they thought that they did have that authority.

[U] Q. Because that technique was not listed as an approved technique in either of the Sanchez memos. So, I was just curious how they came to that when it wasn't. Either they had not read the policy or it wasn't explained to them or they didn't think there needed to be a policy regarding it perhaps?

[U] A. The removal of clothing began before the Sanchez policies were even issued.

[U] Q. Okay.

[U] A. And removal of clothing was also a technique that I know was used in Afghanistan.

[U] Q. Right.

[U] A. And it was used by Special Operations I believe and I know that it was used by Army, Military Intelligence/ Military Police personnel in Afghanistan. And some of the Soldiers who were at Abu Ghraib were also in Afghanistan. So, they brought that technique with them to Afghanistan. I mean—I'm sorry to Iraq.

[U] Q. To Iraq.

[U] A. Now , the other issue is isolation. No one understood—, I don't want to say no one, the word 'isolation' was not clearly understood by all of those that were using it. So, the fact that we could use isolation, those that were granting that authority from the General Sanchez level on down had in their mind what isolation meant. It meant something totally different to the Soldiers that were actually employing it. So, whereas I believe that what was in the minds of those that were issuing the authority on isolation they were believing that you were just keeping people separate from the rest of the population. Well that's really segregation. That's not isolation. But what was actually being done at Abu Ghraib was they were placing people in their cells naked and they were—those cells they were placing them in, in many instances were unlit. No light whatsoever. And they were like a refrigerator in the wintertime and an oven in the summertime because they had no outside form of ventilation. And you actually had to go outside the building to get to this place they called the 'hole', and were literally placing people into it. So, what they thought was just isolation was actually abuse because it's—actually in some instances, it was torturous. Because they were putting a naked person into an over or a naked person into a refrigerator. That qualifies in my opinion as torture. Not just abuse.

[U] Q. Yes, Sir. Okay, Sir. Sir, who prepared and had staff responsibility for the CJTF-7 policies?

[U] A. The interrogation policies?

[U] Q. Yes, Sir.

[U] A. The overall responsibilities rested with Colonel Warren and his staff. They took the primacy for putting that together.

[U] Q. All right, Sir, apparently General Fast was out of the country at the time the 14 September 03 memo was staffed. (b)(7)(b) (b)(7)(b) In your view, did she as the CJ-2 have any doctrinal responsibility for the policy development?

[U] A. Nothing that I'm aware of in doctrine that says that the C-2 has responsibility over interrogation techniques. The doctrine needs to be overhauled. I mean what the Army teaches is you do what's in the FM, and I believe that should be policy. The policy needs to be we do nothing more than what we train. So, if we don't train it in Huachuca, we don't do it anywhere.

[U] Q. Yes.

[U] A. So, for anyone to have authority to go beyond the Field Manual, which means go beyond the training, I think that is a level of authority that no commander should have.

[U] Q. Yes, Sir, okay. Do you have any evidence of whether General Fast reviewed the policy memo upon her return?

[U] A. I don't. I do not know the answer to that question, no.

[U] Q. Do you know whether or not the policy memos were staffed with the CJ-2? And just to back up I'm aware that the lawyer for the 205th MI was involved in the drafting of the policy, as were other lawyers on Colonel Warren's staff. But I am trying to identify who, if anyone, in the C-2 was involved in the preparation of that policy. (b)(6)-2 & (b)(7)(C)-2 or Colonel (b)(6)-2 & (b)(7)(C)-2 or any of the people—

[U] A. No, I'd be very—I do not believe Colonel (b)(6)-2 & (b)(7)(C)-2 or Colonel (b)(6)-2 & (b)(7)(C)-2 saw it. It perhaps might have been seen or passed through Captain (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 who was the staff officer in CJTF-7 C-2 area. Who was overseeing the interrogation operations, but he was a Captain. He's a Major now. My suspicion and I do know that the document went through that office. My suspicion is that's what happened. It went through that office. That Captain now Major (b)(6)-2 & (b)(7)(C)-2 probably said the legal issue well beyond my expertise. I don't know a whole heck of a lot about interrogation practices, procedures, which he didn't. And I suspect he did not give that much more than just okay. Probably ready it and

[U] Q. Was he the C-2 X, Sir?

[U] A. He was—I do not believe—he might have been in the C-2 X shop but I really don't—

[U] Q. You can't remember—

[U] A. I really don't remember. I did interview Captain (b)(6)-2 & (b)(7)(C)-2

[U] Q. You do recall the name?

[U] A. Yes.

[U] Q. But don't have any evidence that General Fast reviewed the policy or weighed in on the policy? I'm just trying to pin down what her involvement was with those.

[U] A. I do not know if she ever actually read the policy when she came back off of sick leave or not.

[U] Q. All right, Sir, how about General Wojdakowski?

[U] A. I'd doubt that he ever did but I don't. I didn't ask him.

[U] Q. All right, Sir. Do you recall, Sir, who in the CJ-3 the policy memos were staffed with?

[U] A. No.

[U] Q. Okay. And do you know why CENTCOM disapproved the 14 September 03 memo or disapproved parts of it? Because you may recall they rescinded that memo and came out with the 12 October. Do you recall what CENTCOM'S issues were?

[U] A. I don't remember specifically. They—my recollection was that they believed it was too broad and gave too much latitude, included too many techniques that CENTCOM was not comfortable with. So, they wanted it to be more restrictive, but specifically in which areas they felt uncomfortable or what they thought I don't remember that.

[U] Q. All right, Sir. And was it your understanding that the 14 September memo was disseminated with the intent that it be put into effect at the same time it was sent back to CENTCOM to reflect their approval?

[U]A. My recollection was they—it was unclear. All right? That in fact it went out with the CJTF-7 expectation that it was going out but that people that were to receive it - basically Abu Ghraib - would know that it hadn't yet received CENTCOM approval, but the reality was there was no guidance whatsoever at Abu Ghraib at point in time.

[U] Q. Right.

[U] A. So, they seized on whatever they had. So they started using what they had and that should have been the reasonable expectation of the CG and the CJTF-7 staff.

[U] Q. Do you think that was a mistake, Sir?

[U] A. Yes. I believe the whole issue relative to the handling of the guidance and interrogation techniques and how it was formulated. The whole thing needs to be overhauled. The whole thing was confusing to the Soldier, confusing to everyone along the line. People had memos that were draft memos. At Abu Ghraib they did not have the two that you're referring to, they had the earlier draft copies.

[U] Q. The 10th of September?

[U] A. Right. So some of them were operating from the draft copies. Somewhat they thought were the approved copies, then it gets changed in October and when did everybody get that is a question mark, that you know, originally they had the [redacted] memo that basically—they were using, you know, and submitted as their Abu Ghraib recommendation as to what should be adopted. So this whole thing about this policy left a lot to be desired.

[U] Q. Sir, who on the CJF-7 staff do you believe had responsibility to make sure the policy was staffed and disseminated properly?

[U] A. Well, I believe that the burden of the interrogation policies should be the C-2 staff's responsibility. I believe that the Staff Judge Advocate needs to be heavily involved with that to make sure that it complies with all laws and regulations. But I believe the interrogation polices should be the responsibility of the C-2 staff.

[U] Q. And apparently, it was not based on what we've talked about?

[U] A. Correct from my investigation I agree with that statement. It wasn't looked upon as being a C-2 issue.

[U] Q. All right, Sir. Do you think General Fast should have reviewed the policy and take a more active more in its staffing and dissemination and development?

[U] A. Given the benefit of hindsight, yes.

[U] Q. Right.

[U] A. But at that point in time, was not an issue that was even on her radar screen. She had just come into country, in the month before. It was in August I believe she came into the country. She had been doing that assessment for the Secretary of Defense on the whole lay down of the intelligence picture there in Iraq. Doing all the requirements of setting up the new fusion center, which didn't exist before she got there. She was grappling with very, very—and I remember because I was at the Intelligence and Security Command at that time. She was grappling with huge numbers of issues. Very complex issues. Trying to put together an infrastructure that did not exist. This was just one issue that was not even raised to her attention as an issue at that point in time.

[U] Q. Right. All right, Sir. Sir, you said that the policies were very confusing. In what way should they have been clarified in your view?

[U] A. Well, first of all, I don't believe that we should have policies that are different from what we teach and what are in the FMs.

[U] Q. Okay.

[U] A. So there should be a total consistency between what is taught at Huachuca and at the other Intelligence Schools, and what we do in the field. In any combatant command. And the only authorities that should exist within the combatant command for interrogation procedures are whatever is taught in the schools. And so there shouldn't even be a need for a policy. The policy should say, comply with all laws, regulations, Geneva Convention, and use the techniques you learned in the schools. As part of that that I found and that should be as simple as that.

[U] Q. And the total —

[U] A. Total consistency.

[U] Q. –policy letters contained techniques that were not in the FM. Do you believe that that contributed to the confusion or even indirectly to some of the non-violent abuses?

[U] A. Yes, and some of the violent abuses, because you would— although there wasn't the hitting, the kicking, and the physical abuses, some of the things that existed like the things we talked about with the stripping. I think I would personally consider that violent in that it violates the person.

[U] Q. Okay, Sir. So then, just to restate, the policy should have stuck with doctrine and should not have gone beyond that because it's not taught at Fort Huachuca. So there's—

[U] A. Yes. We should you know put ourselves in the shoes of the Spec Four or the Sergeant E5 that was asked to do these things. What is sleep deprivation? How do you actually do that? What is dietary control? How do you actually do that? We're passing all those judgments to the lowest ranking individuals in the chain and putting huge burdens on them as to when do they go too far?

[U] Q. Right.

[U] A. And when don't they? Isolate this detainee. Well what does that mean? They were doing it as they thought they should be doing it. The fact that it was a violation of the Geneva Convention and abusive really didn't occur to them.

[U] Q. Sir, should, in your view, General Sanchez have recognized this at the time he signed the policies and put them into effect?

[U] A. I don't believe that you know when we have a Three Star General who is fighting insurgency and he's got it with an inadequate level of staff that we could really expect him to think through that level. I think that's not a failure on General Sanchez—that's not a failure of command. That's a failure of 'the system' to think through and be prepared for these types of realities. Army doctrine is not the responsibility of the Commander on the ground.

[U] Q. Right. Okay, Sir. So, in your view was General Sanchez either negligent or culpably inefficient in the way the CJTF-7 policies were developed? In other words, did he get sufficient legal reviews; was it properly staffed?

[U] A. He got legal reviews. I don't think the legal reviews were sufficient, but he got legal reviews. He was relying on his Staff Judge Advocate. And not only did he get legal reviews, remember this was approved by CENTCOM. So, CENTCOM got legal reviews and it still didn't work.

[U] Q. Right.

[U] A. So you know it's not—it's not just Sanchez here. I mean where is CENTCOM in all of this? Why aren't they clearing up these confusions? They have another whole group of lawyers, and other staff officers. Of course I did the report for CENTCOM but if we want to use that logic, that reasoning to hold General Sanchez accountable then General Abizaid is just as accountable as is others. DoD would therefore be as accountable.

[U] Q. All right, Sir.

[U] A. Under that logic.

[U] Q. Right. So would you say anyone on the CJTF-7 staff was negligent or inefficient in this regard concerning the way the policies were developed and ultimately approved?

[U] A. I believe that the Staff Judge Advocate Office should have been more careful in their development of this. I can't be totally—critical of them because they were under the same strain that everybody was. They were understaffed; under resourced; they were using young—all they had was young inexperienced attorneys and in this particular instance some of this work was done by not even an American attorney but an Australian attorney. Now, I'm not casting dispersions on Australia, but it's a different country.

[U] Q. Right.

[U] A. They don't comply with our regulations, Army regulations or laws. So I believe it's an issue that goes broader than just the SJA Staff. But I have quite a bit of experience dealing with legal issues and lawyers and my expectation is that the SJA staff probably could have done a more thorough job even given the circumstances, than what was done in this instance.

[U] Q. So, in your view was there anything that General Sanchez could have done differently, given the circumstances concerning the policy?

[U] A. Well, I believe that given the previous instances that had become the issues that he probably at an early stage should have been more alert. Focusing on those issues.

[U] Q. All right, Sir, and those issues that were cited in the report includes the instances at Camp Cropper, the ICRC visits, some of the CID cases that had already come to light?

[U] A. Yes. The Bucca, the Camp Bucca—

[U] Q. Camp Bucca, right.

[U] A. –issues. Yes, and I think all of those taken together should have focused in sooner than he did.

[U] Q. Was his failure to recognize this in your view, negligent on his part?

[U] A. No, I don't consider it negligent. I consider it an issue that he perhaps could have recognized sooner. It's very difficult for me to say. That didn't comply with the standard of care that any other Three Star would have given this under the same facts and circumstances that he found himself.

[U] Q. Yes, Sir. Okay. And finally, Sir, for my last question on the policies, were the policies themselves in anyway improper, in that the techniques violated an Army standard or law? And we've already talked about how some of the techniques were outside of doctrine.

[U] A. No, the policies themselves, were not outside of law or regulation as you specifically read them.

[U] Q. Okay, did any of the techniques violate the Geneva Convention in your view to include those techniques that required General Sanchez's approval?

[U] A. Yes, I believe that the—and this is one of the ones that weren't thought through.. Remembering in all of the documents that were produced they all said that these have to be complied, it doesn't relieve you of compliance with the Geneva Convention.

[U] Q. Right.

[U] A. But that transferred the decisions as to when it did and when it didn't down to the Soldier. When I thought you know in some instances that the Staff Judge Advocate could have thought those issues more thoroughly. As an example, use of dogs. They should have been specifically and absolutely prohibited. The fact that there was a question about whether or not they could or couldn't be used should have been taken out of those documents entirely. They should have – specifically- dogs are authorized in the interrogation booth. Because if you use dogs in the interrogation booth, what good would they have done unless they were used in order to physically intimidate somebody? And a physical intimidation is a violation of the Geneva Convention. And if you're not going to physically intimidate somebody with a dog why use them in the first place? So there even the thought of using them doesn't make any sense to me. So they should have been totally excluded and that's just one example to answer your question.

[U] Q. Okay, Sir. The next finding, Sir, the JIDC was created in a very short time with parts and pieces of various units. It lacked unit integrity and this lack was a fatal flaw. Sir, do you recall who in CJTF-7 was responsible for developing the JIDC? Who was kind of the lead agent on that?

[U] A. Well who actually came up with the original idea——

[U] Q. Idea—

[U] A. –by JIDC, JIDC is actually in doctrine. So, you can actually go to doctrine and find that in a operation such as CJTF-7. That there is a Joint

Interrogation Debriefing Center is mentioned. It should be used for the interrogation debriefing of prisoners and detainees. The problem is that's about all it says. So it doesn't specify as to how should that be manned. How should the manning be determined? Where does the manning come from? So, you create this thing in doctrine known as the JIDC. Yet, you don't staff it. So whose—where do the bodies come from? Where do the Soldiers, Sailors, Marines, and Airmen; where do they come from? Where do the civilians come from? You know out of whole cloth. So there is no doctrine beyond the fact that it just states that the JIDC should exist. And that I believe is, is the initial four.

[U] Q. Okay. And do you recall which officer actually suggested setting it up? Was that part of General Miller's visit when he came over or was it General Fast idea or—

[U] A. I believe it was— yeah, I think it was a general consensus that 'we' needed to set this up so that—, Colonel Pappas was involved with that discussion. Colone (b)(6)-2 & (b)(7)(C)-2 Not General Fast because General Fast wasn't there yet.

[U] Q. Okay.

[U] A. General Sanchez was involved with discussion. They were influenced by the General Miller visit as to what to do. They were actually thinking in this concept before General Miller showed up. But then when General Miller showed up it sort of cemented the case that they needed to stand one of these things up in order to have a place to interrogate all those prisoners because they were overwhelmed by the numbers of detainees versus the numbers of people they had to interrogate those detainees. We just didn't have enough interrogators anywhere.

[U] Q. Yes, Sir.

[U] A. So they figured well let's put them all together in one central place.

[U] Q. And you indicated that the lack of unit integrity was the fatal flaw. What made you characterize this as a fatal flaw?

[U] A. Because we build units for reasons. For very good reasons. Be the Military Intelligence units, whatever kind of unit, builds teamwork and it builds the reliance on the strengths and weaknesses of individuals to build a better team. Non-commissioned Officers have a critical role in any unit and Non-commissioned Officers are relied upon because they know the strengths and weaknesses of their Soldiers. They also are relied upon for the oversight of those Soldiers, so they watch those Soldiers and lead those Soldiers through the day-to-day activities. Officers are generally not involved with the day-to-day activities of the Soldiers. When you are just putting people together, individuals together, from all over the Army as we did with the JIDC, you lose that familiarity that the unit has. You lose the ability for the NCOs to make the determinations as to who has the ability to do which jobs. Who needs to be watched? Who doesn't need to be watched? How much influence does one Soldier have over another? Who's trained well; who isn't trained well? Who really knows their job; who doesn't know their job? NCOs do all of that. That couldn't happen at Abu Ghraib because nobody knew anybody. People were just sent there to do 'a job', it wasn't a unit. They created their own organization as best they could given the circumstances, but they never trained together. It's common and we hear it all the time in the Army you train as you fight. Well these people never trained together. They didn't know each other.

[ ] Q. Right.

[U] A. So how do we expect them to fight together?

[U] Q. Given the shortage of personnel and other resources that you cited in your report, Sir, what else could CJTF-7 have done?

[U] A. They should have asked for a unit. Send me a unit. Send a Military Intelligence trained unit. Don't send me parts and pieces. I want a battalion and I want a company whatever the right number is. Two companies. Whatever the requirements. The right requirements are, but send me a unit and let me give the unit the mission to do this.

[U] Q. And whose responsibility, Sir, would it have been to ask for that unit?

[U] A. I believe that the person that should have brought to General Sanchez's attention would have been Colonel Pappas. He's the one that should have identified that as a requirement, and—-

[U] Q. Do you have any idea why he didn't or did he and it was just not acted upon?

[U] A. I believe that his solution was that he was going to get enough assets from the Army to perform his mission, so he put out a request for forces, to the Army which the Army responded to by sending him Soldiers from MI units all over the world to fill his void. I don't think that was the right way to do it. I think a more effective method would have been for Colonel Pappas to turn to one of his battalions. Remember he had nine battalions assigned to him.

[U] Q. Yes, Sir.

[U] A. To turn to one of his battalions and said this is now your job. Figure this out. You're the one that has responsibility for this. The battalion already

has its staff elements, its NCOs that know each other. And leave it to that battalion to build the structure that they needed. But you could have had that battalion staff available for the leadership that would have been required.

[U] Q. So, you would place this responsibility for ensuring unit integrity of the JIDC on Colonel Pappas?

[U] A. In this instance.

[U] Q. Yes, Sir.

[U] A. Now broader than that we as a Nation if we need JIDCs then we should state so and staff them. And say where specifically we're supposed to get the bodies for these. We create all these joint organizations and then pay for them out of hide because nobody wants to increase end strength. Well then, we shouldn't create these additional things.

[U] Q. All right, Sir. Okay, Sir, moving on to the next finding, Major General Geoffrey Miller, it says, did not introduce harsh techniques into Abu Ghraib interrogation operations. In the follow-on, JTF GTMO Training Team had a positive impact on the operational management of the JIDC. However, the report also found a disconnect between the strategic orientation of the JTF GTMO Team and Abu Ghraib orientation on tactical operations. Can you comment, Sir, on the difference between the strategic and tactical orientations?

[U] A. Yeah, at GTMO their focus was on the detainees that had been captured in Afghanistan. Their perspective was to develop strategic long term information from those detainees. Their tactical information had long since perished.

[U] Q. Right.

[U] A. It had been a long time since they had any tactical operational intelligence of any value. Generally, operational intelligence value perishes within 72-hours or so. The further you get away from 72-hours, the less valuable information you're going to get from a detainee. That's of operational use. You know we talk about 'actionable intelligence'?

[U] Q. Right.

[U] A. Well, actionable intelligence is perishable. So where is the Army's cache? You know where is the leadership of the insurgency? Where were they living? What's their address? That stuff perishes very quickly. Especially in an insurgency. So, you need to get that stuff very quickly and that should have been the focus and was the focus at Abu Ghraib. Whereas in GTMO it was well, what was the methodologies used to recruit you? Where did they recruit you? Where did they train you? Much more long-term strategic information.

[U] Q. So, they came in with a different focus then?

[U] A. And their experience was different because they were use to focusing on that long-term stuff.

[U] Q. Right. Yeah.

[U] A. And they came in with that mindset whereas the people at Abu Ghraib were trying to respond to the Division Commanders.

[U] Q. Right.

[U] A. That says where's the next ambush site? Where are they getting all these IEDs from? , you know who's the leadership in this village? Much more tactically oriented as we should be in an insurgency.

[U] Q. Okay, Sir, was this different focus then between the two different groups, how did that contribute, if at all, to the abuse that ultimately occurred? Did it have to do with the different interrogation techniques that may be used depending on your focus? And I'm not trying to put words into your mouth----

[U] A. No. No, It really did not impact the abuses at all. This was just an inefficiency that existed that we addressed in our investigation and in our report. But it had no impact on the abuses. Now the GTMO Team did have an impact on the abuses but not in regards to what we just spoke about.

[U] Q. And can you elaborate on that, Sir? That kind of flows----

[U] A. Yes, there was the GTMO Team that came to assist Abu Ghraib and to learn the Tiger Team method that General Miller successfully used in Guantánamo Bay. And members of that team from GTMO, or one member in particular, actually observed and reported that abuse or those instances. There were two instances of abuse to his supervisor.

[U] Q. And that was Specialist [redacted] reporting to Chief [redacted] [redacted]

[U] A. That's correct. And, and for whatever reason Chief [redacted] [redacted] doesn't recall either of those incidents and did not therefore take them any higher and didn't do anything about the abuses that reported to him. And Specialist [redacted] we found to be a very credible witness and Chief [redacted] agreed that if he says he reported them to me I—he was confident that it was reported to him. He just plain for whatever reason doesn't remember those instances. But I believe that the fact that the Guantánamo Team was present during interrogations, that were abusive, and that no action was taken—, that that in essence condoned those procedures, because here we have the experts from GTMO. They see this stuff going on and—

[U] Q. Nothing happens.

[U] A. Nothing happens.

[U] Q. All right, Sir. I understand that now. Did Chief (b)(6)-2 & (b)(7)(C)-2 or Specialist (b)(6)-2 & (b)(7)(C)-2 have any responsibility to report their observations of these abuses that we just talked about to General Miller back in GTMO?

[U] A. No, not—

[U] Q. Because they were OPCON as I understand it to the 800th at that point.

[U] A. They were—well not to the 800th. They were OPCOM to the 205th.

[U] Q. To the 205th, yes, Sir. Right.

[U] A. And they had a responsibility, especially (b)(6)-2 & (b)(7)(C)-2 I think. I think (b)(6)-2 & (b)(7)(C)-2 fulfilled his responsibly because he told (b)(6)-2 & (b)(7)(C)-2 who was his supervisor and the supervisor according to (b)(6)-2 & (b)(7)(C)-2 said he'll take care of it. He was going to talk to Colonel Pappas about it. So I think (b)(6)-2 & (b)(7)(C)-2 did fulfill his responsibilities.

[U] Q. Right.

[U] A. The shortcomings were on Chief (b)(6)-2 & (b)(7)(C)-2 performance. But that reporting chain at that point would have been to Colonel Pappas. And that was definitely a shortcoming. But no, he did not have, the responsibility to therefore report it to Miller. Miller wasn't there. He wasn't OPCOM to Miller. Since he doesn't remember it, he couldn't have told Miller about it anyway, but—so.

[U] Q. Right, and you have no evidence that General Geoffrey Miller was ever made aware?

[U] A. I specifically asked Miller that question. And General Miller told me no, (b)(6)-2 & (b)(7)(C)-2 never had any such conversation with him. And (b)(6)-2 & (b)(7)(C)-2 said no I never told Miller because I never told anybody because I don't remember being told.

[U] Q. Okay, Sir. Do you think General Miller bears any responsibility at all for this failure to report abuse?

[U] A. No,

[U] Q. As indicated by [redacted]

[U] A. No. No. I mean [redacted] is I forget if he's a CW3 or a CW4—

[U] Q. Right.

[U] A. As we're sitting here today I cannot imagine what the heck happened in that incident. He—from what I have observed, what General Miller told me, and what others told me about [redacted] upstanding, you know. Subject matter expert—, how he could not have reported something like this and not even remember it is beyond me. I cannot understand it as we sit here today.

[U] Q. Yes, Sir, in one of his statements he indicated that he was sick at some point. But--

[U] A. He was ill at the-- but even being ill I can't understand it.

[U] Q. Right.

[U] A. But yes, both [redacted] and he, and he did go on sick call the next day after this occurred, but still, I still can't understand how he couldn't have reported it.

[U] Q. Okay. You already discussed how in your view that the JTF GTMO Team quote unquote "validated" the use of unacceptable interrogation techniques by being present when such techniques were being used and nothing happened. So therefore, the folks at Abu Ghraib believed that they were okay. Is that a correct summation?

[U] A. Yes, that's my supposition.

[U] Q. Yes, Sir.

[U] A. Yes.

[U] Q. Yes, Sir. Okay. And finally, Sir, this is kind of an overarching question. In your opinion as a senior leader, did the actions of any senior leader noted in your investigation constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. No.

[U] Q. Okay. Sir, is there anything that, we failed to ask you that you would like to add?

[U] A. No.

[U] Q. Okay, Sir, well in that case if you've got nothing else to add I'll go ahead and do the formal read-out and let you get back to work.

[U] A. Okay. Great.

[U] Q. First before we get into that, Sir, based on the questions that I've asked you, is there someone else that you think we should talk to and why? I've already mentioned that we'll talk to General Jones tomorrow. Are there key folks that you have interviewed that you would recommend that we re-interview based on the results of our questions?

[U] A. And the focus of your investigation again is what? The senior officials?

[U] Q. The senior officials. Yes, Sir.

[U] A. General Jones obviously, I think is a key individual. You know I had a whole team of investigators. You certainly have access to all their names. If there are any fact issues that you think need further clarification on, certainly feel that you could review that list and speak with any of those.

[U] Q. Okay, Sir.

[U] A. But I don't think any of them that would have the degree of knowledge that I had relative to the subjects you talked about.

[U] Q. Yes, Sir.

[U] A. Because they didn't focus on senior leaders. So basically, I was the one that dealt with those issues.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay. All right, Sir. Great. We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] MG FAY: Yes.

[U] (b)(6)-2 & (b)(7)(C)-2: Sir, do you have any questions?

[U] MG FAY: No, I do not. Thank you.

[U] (b)(6)-2 & (b)(7)(C)-2: All right, Sir, the time is 1415 and the tape-recorded portion of this interview is concluded.

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Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was transcribed and certified by (b)(6)-2 & (b)(7)(C)-2
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

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AVERY™ RECYCLED PAPER MADE FROM 20% POST CONSUMER CONTENT

Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was taken on 14 October, 2004 at Fort Monroe, Virginia,
Between the hours of 1600 and 1745
By(b)(6)-2 & (b)(7)(C)-2 and Colone(b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2: The time is 1600. This tape-recorded interview is being conducted on 14 September, 2004----

[U] COL.(b)(6)-2 & (b)(7)(C)-2 October.

[U] (b)(6)-2 & (b)(7)(C)-2 What did I say? September. 14 October, 2004 at Fort Monroe, Virginia.

[U] Persons present are the witness Lieutenant General Jones and the Inquiry Officers Colonel(b)(6)-2 & (b)(7)(C)-2 and(b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] LTG JONES: I do.

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] [redacted]: Do you have any questions before we begin, Sir?

[U] LTG JONES: No, I don't..

[U] [redacted]: Sir, please raise your right hand so I may administer the oath.

[U] [Major General Anthony R. Jones was sworn and testified under oath as follows:]

BY [redacted]

[U] Q. You may lower your hand, Sir. For the record, please your name?

[U] A. Lieutenant General Anthony R. Jones .

[U] Q. Your rank and component?

[U] A. Lieutenant General, united States Army.

[U] Q. Your current position and organization?

[U] A. Deputy Commanding General and Chief of Staff, Headquarters, Training and Doctrine Command.

[U] Q. Your Social Security Number and this is voluntary, Sir.

[U] A. [redacted]

[U] Q. An address either home or office. Home is fine.

[U] A. [redacted]

[U] Q. All right and a phone number either home or office.

[U] A. [redacted]

[U] Q. All right, Sir, thank you. We'll go ahead and get into the questions now. Sir, what I am going to do is go through some of the findings that were published in your report and then ask a few clarifying questions about them. I'll read the finding and then we'll talk about it.

[U] The first finding is: There is sufficient evidence to reasonably believe that the personnel on the CJTF-7 staff, principally in the OSJA and

CJ2X, had knowledge of potential abuses and misconduct in violation of the Geneva Convention at Abu Ghraib. This knowledge was not presented to the CJTF-7 leadership.

[U] Sir, do you recall who specifically in the Office of the Staff Judge Advocate and in the CJ2X had this knowledge of potential abuses? Do you recall them by name?

[ ] A. First of all in the SJA, Colonel Warren and his people, due to the fact that the investigations and the reports- ICRC that they saw, had sufficient evidence to determine that there were— abuses going on.

[ ] Q. Uh, huh.

[ ] A. In Colonel Warren's statement I think he concludes one of the things that he failed to do was to inform the Commander. The C2X people were people who habitually went to Abu Ghraib. I concluded by association and the numerous trips they did to working with the interrogators, that there were abuses on-going. They should have gained knowledge of them and reported accordingly. I didn't get further down into that, but I concluded that after reading the numerous witness statements and the interface that they had with the prison systems.

[ ] Q. Okay, Sir. Did you have any indication that General Fast as the CJ2 was one of the folks that was aware of these potential abuses?

[ ] A. No, I didn't. I had indications that when she was aware, then she reported to Sanchez. Again I found that— in her position and what she did, based on the environment she was in, she was so tied up during that period of when she came in the country through January with establishing the intelligence operations and trying to pull the Coalition and the Agencies-interagency-together, that she didn't focus on interior—on the interrogations.

[ ] Q. Uh, huh.

[ ] A. I know some people find that hard to believe, but she spent more than 50% of her time supporting CPA.

[ ] Q. Yes, Sir.

[ ] A. And, and she did yeoman work in trying to get— the intelligence and the priority of the intelligence requirements out and make it seamless from tactical to strategic. Establish the communications, with little or no resources.

[ ] Q. Right.

[ ] A. And, and I think that's somewhat true of most of the staff. I think their focus was not down—I think it was towards the CPA and fighting the counter insurgency.

[ ] Q. Yes, Sir.

[ ] A. That's basically, what I found.

[ ] Q. Sir, you mentioned that when General Fast was apprised of abuses that she reported it immediately. Which circumstances were those?

[ ] A. One of the first ones I saw was the 4 November case where the— it was also classified as 'Ghost Detainee' where they— the detainee was brought to Abu Ghraib by OGA personnel, early morning hours. Subsequently died there at Abu Ghraib. That was reported to her by Pappas by phone. She reported to Sanchez. Sanchez directed her to contact the Chief of Station and to ensure an investigation is being done. , and that's what she did. The CID—and not only the Agency then started an investigation, but also did-- the CID because of their death.

[ ] Q. Is there any other instances, Sir, that you're aware of?

[ ] A. There was another case I believe it— at Cropper.

[ ] Q. Uh, huh.

[ ] A. I don't know the specific details reported. And in that case, she also reported it and that was passed up to CENTCOM because the Iraqi Survey Group did not come under the CJFT-7. So that was reported back up to CENTCOM to investigate and was subsequently investigated.

[ ] Q. Okay.

[ ] A. That's two specific I know of in that timeframe.

[ ] Q. Yes, Sir. Okay. Okay, you cleared up the question that I had. And specifically the knowledge of potential abuse and misconduct that they had, you mentioned the ICRC report and the allegations that were in that report of the nudity and the women's underwear and that kind of thing. Was there other misconduct that they were aware of that you believed that they had?

EXHIBIT

[ ] A. If— when you look at the magnitude of incidents in these reports—have you see the list of CID investigations?

[ ] Q. Yes, Sir, all of them.

[ ] A. If you go back and look at that, and the compilation of all those incidents at Bucca, Cropper, Abu Ghraib, point of the spear, the relative magnitude of those would tell a person that probably we've got more than— more than a disciplined Army should have.

[ ] Q. Uh, huh.

[ ] A. And that was my basis of saying there were sufficient indications of warning due to the magnitude. The one instance where the—you know there is a Ghost Detainee thing where they finally found the three Saudis in Abu Ghraib. Well that's not normal. And, so it tells you that, it-it begs the question who's paying attention. For that number of abuses and the number of investigations on-going. You know there is also other deaths that happened. And how they were reported. Got to come up through somewhat the JAG channels. And I can't believe that that was accepted as a norm.

[ ] Q. Uh, huh.

[ ] A. And so to me I—I known there has to be something that led to the Sanchez memos of October and December about the treatment of civilians with dignity and respect. I know there was a lot of focus on the loss of US Soldiers and who was killing them and who—and what the support base was and so forth. And that's kind of troublesome. Now you also have to put that into context. There was a lot of pressure at the time to find Saddam Hussein. So, the two sons were killed in July up in—up north. But then up to about six weeks before Saddam Hussein was captured plus the advent of Ramadan coming in there which expected increased attacks on US Forces and so forth, kind of focused their attention on that and then immediately after the capture of Saddam Hussein, then there was a lot of work done to take the information they found and actually resulted taking down 50% of his support base. So that's where their focus was at the same time all of this was going on at Abu Ghraib, October-November. So, but having said that, I think that the magnitude and the conditions at Abu Ghraib starting to improve later in the fall. And if that was to be the central location which all prisoners were filtered through, it begs a lot of the questions, are we doing it right.

[ ] Q. Yes, Sir.

[ ] A. And that's where was very little leadership there and direction. But I think there's people and I think in those two particular offices of the staff— maybe not at the senior staff level, but the people within those staffs had to see the reports. They may not have had the experience or maybe by the fact like in the SJA you had the UK guy, Australian guy, and they have a different perspective than a US person. But that led me to believe after reading all the statements, that— there was probably information there that they knew. Either accepted it as being the norm or they actually knew that something was gonna happen and they'd discipline the commander.

[ ] Q. Yes, Sir, was General Sanchez aware of the CID cases and—

[ ] A. I don't know. I know he was in certain cases. You know of the deaths to ensure that they were being investigated. And then I—and two, I don't know if in case—he was reviewing—a number of cases outstanding and so forth that based on the number of deaths that were in custody.

[ ] Q. Right.

[ ] A. Because there were several.

[ ] Q. Yeah. Yes, Sir, okay. And, Sir, you indicated in the finding that this knowledge was not presented to the CJTF-7 leadership. What evidence caused you to come to that conclusion?

[ ] A. Mostly Colonel Warren's statement. He said he didn't tell the Commander.

[ ] Q. Okay, you're in particular referring to Colonel Warren's statement. Okay.

[ ] A. That and the fact that I interviewed Fast she didn't know about it.

[ ] Q. Okay, Sir.

[ ] A. So obviously, people weren't telling her.

[ ] Q. All right, Sir. The next finding was interrogation technique memos did not adequately set forth the limits on interrogation techniques. Misinterpretation of CJTF-7 policy memos led to some of the abuses at Abu Ghraib but did not contribute to the violent or sexual abuses. Sir, just to clarify, specifically to which abuses do you refer?

[ ] A. When you take the number of abuses, categorized forty-four, clearly some of those were direct misconduct.

[ ] Q. Right.

[ ] A. Knowingly doing things which are criminal. And pure indiscipline. There were others of which, we feel that some of the Soldiers may have thought they were within the legal bounds based on the population of detainees that they could do. And in particular I think when you ask as General Fay did. One question he asked them about nudity. He went through the sequence of logic of, you know, is not this in violation of Geneva Convention. And the response was well I guess it is. And so you know why did you do that? So here—was a misunderstanding based on the proliferation of either by word of mouth or techniques being used and/or the acceptance within the environment created at Abu Ghraib or with the lack of leadership stepping up and saying that is wrong, you cannot do that. That—that was being used by the interrogators and/or others as a common practice.

[ ] Q. Uh, huh.

[ ] A. And, I fault leadership as much as I do--leaving the judgment—leaving the interpretation of interrogation techniques to junior Soldiers— to perform that way.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

BY COL. (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Sir, when you used the term "faulting leadership" is there someone particular that comes into mind or do you define that generally to the entire chain of command in this process?

[ ] A. No, I'm talking Brigade and below.

[ ] Q. Brigade and below. All right, Sir.

[ ] A. Here's what happened. In terms of the MPs they had the 320th in Phillabaum. Because they had—they set up in each detention facility a MP Battalion. A MP Battalion is supposed to be able to handle four thousand detainees. And that was the plan going in. They were ready to set up somewhere, I think, somewhere between thirteen or fourteen different detainee centers. So the MPs coming in, they had sufficient resources to manage those. In the end they didn't obviously set up that many detention facilities. But in this particular case, the mission was

assigned to the 320th because they were moved in there to do that. The leadership there broke down because they didn't—obviously with the conditions that were there, they didn't get an improvement, they didn't have—ensure proper oversight. Day and night they didn't check things. That is one thing.

[ ] And in the intelligence arena, you know Colonel (b)(6)-2 & (b)(7)(C)-2 sent Jordan down there to establish the JIDC. Be in charge of interrogation and debriefing. He didn't take charge. He become kind of the Mayor of Abu Ghraib. And become the buddy and friends of the different factions. And then you had multiple units to include the 519th providing interrogators to go down there and assist. Nobody in charge of them. No First Sergeant. No Company Commander. Nobody to fall in on and say okay this is where you're gonna live. This is what you're gonna do. Checking the procedures. So nobody stepped up and took charge. Probably only through the graces of Captain (b)(6)-2 & (b)(7)(C)-2 did somebody start to put some organization to it. But even her she was a Staff Officer. Not in charge of anybody. So in the normal chain of things, there was no decision to put—a MI unit chain of command in there to check and oversee what they were doing. If that was the centralized place. And I think that was a bad decision.

[ ] And it just continued to morph until 19 November when Sanchez with his frustrations with security as a whole put Pappas in charge for force protection and/or running the—the base camps. Probably not his forte but if you look at it in terms of being a Colonel, and having a staff and people to do that, okay. Phillabaum was definitely weak. The NCO leadership never stepped up. In any case either MPs or MI. So we had a—we had a situation there of nobody in charge and it becomes clear as you look at it nobody took charge. Okay? And that led to an environment of—of, a permissive environment which allowed some of the personnel who lacked discipline to become the influences of what was going on inside the compound. And then the people like England and so forth who— who very—I guess—even though she had relationships before they ever got there with Graner and them, they had—they had—those who did not have the moral fortitude to step up and do what's right—went along with the crowd. And no leadership stepped in. Standardized procedures. Standardized ideas—standardized the operation. Made sure there's accountability. Made sure the interrogations were done right. I mean a perfect example is the MPs decided not to escort the prisoners to the interrogations. Well how could that happen? You know? They just decided not to do it because they were short resources. So who's in charge? Nobody.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Okay, Sir. Thanks.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Sir, in your view, were any of the techniques that were authorized in these interrogation policy memos a violation of the Geneva Convention?

[ ] A. I think in and of themselves if—if, they probably could have been worked without violation. But I think the—it depends on how you interpret the Geneva Convention as to— I'm trying to remember the words. Because there's particular safeguards for requesting different—techniques to be used. None of which were requested. Except isolation. I think, but—, what it did was open the door to—to the—perception that additional interrogations could have been used other than what's been doctrinally and what's been in their training. Because I think Sanchez thought that when he put the safeguards on there, he still had—somewhat control of what interrogations would be used. I don't think it was right because obviously if you think through it, you've got the junior Soldiers again exposed to interrogation techniques they've not been trained in. They're not sure how to use them. Concurrently there's no training to talk about—talk them through those things. So we exposed them to another set of TTP so to speak. That's— they only—only knew probably through word of mouth and through their own imagination and interpretation how to use those.

[ ] Q. Yes, Sir.

[ ] A. So I think in itself, the interrogation memos were not required.

[ ] Q. Yes, Sir.

[ ] A. So when he, Sanchez, was advised in signing—and provide that memo, what I would have done if I was his legal, I would have said you will abide by the— what's in 34-52.

[ ] Q. Any idea, Sir, why he asked for- inter—these policies to be developed, or why he directed that they be developed?

[ ] A. I think it's similar to what— the discussions going on in all theaters.

[ ] Q. Uh, huh.

[ ] A. Clearly everybody knew that the populations still— were covered by the Geneva Convention. And there should be nothing done to those which is deflamatory and/or against their cultural norms, and they

should be treated, you know, with some level due of continued respect. Obviously Miller saw that they probably needed some—some guidance in terms of interrogation techniques, that happened when he came in and advised. The memo came out about a month later after his visit, at least a couple of weeks. You know as we heard this morning that those were being worked beforehand. In the spring timeframe as to what's going on there were a lot of requests for what were the limits of authority in different theaters now that we've declared different populations as non-combatants. And so that brought up a lot of questions of what if you had detainees in those populations— does the Geneva Convention apply or not? And then I don't think that was ever clear. I think in GTMO and Afghanistan they felt the Geneva Convention did not apply.

[ ] Eh, so— as these people like the 519th came from Afghanistan, as the people came in , or through word of mouth and computers and e-mails and so forth different techniques that work in different places. I think then they felt that maybe we also have— an opportunity to use additional techniques. And I think it was a matter of clarification what can we do and what's the limits of our authority with our populations. And that prompted—then the SJA people to come up, use the 16th April SECDEF Memo as a—as a reference and then apply it to Afghanistan. So they thought they could apply that but say safeguards are here and Geneva Convention still applies. Taking what the SECDEF did as—as kind of commander's intent and interpret it for their theater. And I think that was bad counseling.

[ ] Q. Yes, Sir.

[ ] A. I think it was also bad counsel that the SECDEF even signed that. Because those things come out—get out pretty quickly.

[ ] Q. Yes, Sir.

[ ] A. We saw in Bagram when we visited Afghanistan in the prison there—

[ ] Q. Uh, huh.

[ ] A. In a briefing, they were showing the chain of custody and how things work in the prison, and proper medical checks, and so forth. But they—they referenced off to the side in compliance with SECDEF April memorandum.

[ ] Q. Uh, huh.

[ ] A. Now, if you remember, that doesn't have anything to do with Afghanistan.

[ ] Q. Right.

[ ] A. That was at GTMO. So now, they also had it. So we ask them why do you have that there, that doesn't even apply to you. Okay? That's how things were moving. The information was moving through out the theaters.

[ ] Q. Sir---

[ ] A. And this was just a couple of nights ago, when we were there.

[ ] Q. Oh, that's great. Sir, it appears that the majority of the effort on the policy letters was in fact a SJA effort on the part of the lawyers at the 205th as well as the lawyers on Colonel Warren's staff. Were the policies staffed with General Fast or anyone in the C2?

[ ] A. I did not. But I think they were at the lower levels. You know Fast wasn't there at the time those were created and I—and I think it was seen as a SJA responsibility to ensure compliance with the Geneva Convention.

[ ] Q. Sir, in your view should it have been staffed more thoroughly with the C2?

[ ] A. Yes.

[ ] Q. And in particular, do you think General Fast should have a say in it somewhere?

[ ] A. I think so.

[ ] Q. And why do you think that?

[ ] A. Of course, she wasn't there.

[ ] Q. Right.

[ ] A. That's the problem. And then— so it was somewhat an incomplete staff action led by the SJA folks to get something out.

[ ] Q. Uh, huh.

[ ] A. In the second iteration then obviously after they published the first one, then they— you know sent it to CENTCOM and said this is what we're doing. That's when it caused—wait time out. And it caused them to change and republish, in October the second memo. What was confusing with that as I said earlier the first memo that came applied to different populations: Security detainees, civilians, criminals, and so on and so forth.

[ ] Q. Right.

[ ] A. Whereas the second memo came out and addressed—addressing only security detainees which those of military value were a subset.

[ ] (b)(6)-2 & (b)(7)(C)-2: Sir, do you have any questions?

BY COL. (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Sir, given General Fast as the C2 had some doctrinal responsibilities in development of policy and General Miller the C3, was assigned as the staff proponent for detention operation, do you think they had some obligation to make sure they were involved in that process; or is your assessment that they simply by-passed, or other places and didn't have an opportunity to get involved?

[ ] A. I think the difference is—the C2 has oversight of intelligence collection policy. The execution given to the 205th Commander. The C3 had- was responsible for detainee ops overall vested with the Provost Marshal. So, when you talk about distribution, the number of camps, so and so forth, that fell in the C3 area obviously. The conditions of the—the physical security, all of those things should have been under the C3 purview. I think when the C2 asked to sit as a member of the staff, PIR, obviously the Priority Intelligence Requirement, they can—he has to make sure that the appropriate— through out the theater collection is synchronized and going on. And interrogation being one piece of that, and then getting that from the tactical to the strategic and fusing that has Fast creating a fusion center that you had and all those other things. I think—the execution of the interrogation whether it be down at battalion at point of spear or in the facilities is hard for the C2 to do. II think if you—if—if the MPs and the MI folks would have followed all normal doctrine what they've been trained to do, policy and doctrine wouldn't have been any—any problems in any case.

[ ] Q. But in our focus of senior official involvement where they were involved or potentially should have been involved, outside of the SJA that we have a pretty fair understanding of right now, are there other

officials, senior officials, that you think should have properly been involved in the preparation of this policy and were not?

[ ] A. Yeah, I think so. I—I think that policy should have been looked at not only by the JAGs it should have been C2. Should have been looked at by the Provost Marshal. Somewhat I think CENTCOM. Possibly even coordinated down to the Division level.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. And did you have any indications, Sir, that General Fast upon her return looked at the letters, weighed in at all, offered any opinion, any doctrinal guidance?

[ ] A. No, I didn't. And I thinks it's because she relied on her subordinates to interface. Obviously (b)(6)-2 & (b)(7)(C)-2 was working pieces of it. I mean I'm not even so sure she knew who Jordan was. Quite frankly. Jordan had told her he had sent—or, (b)(6)-2 & (b)(7)(C)-2 had told me he had sent Jordan down there to be in charge of the JIDC. Or the J-I-D-C— and support that operation. And I think she said okay great. And moved on. It's hard to fathom sitting in hindsight what he did or didn't do something. You have to go back to—you know being staffed at one-third that they should be. Trying to get time to establish just the organization and procedures needed to go on.

[ ] And the other fault here is the State Department and the other agencies didn't step up and support the CPA. It was left to the military to do. And that really put them in a crunch. So they were you know trying to support and make the—the guidance was make the CPA successful. You know, because Bremer come in after— Lieutenant General Retired---who was before him?

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Garner, Sir?

[ ] A. Garner. Was it?

[ ] (b)(6)-2 & (b)(7)(C)-2 I think so.

[ ] A. So when Garner got—things weren't moving, weren't going right so they sent Bremer up there and— they created the CJTF-7. Garner you know he got in there and he said I don't have the people. I don't have telephones. I don't have contact with anybody. I got nobody to work for me. And—there's nothing here. So Bremer then gets appointed and gets sent there and some of the issues was let's make him successful because we're gonna turn this back over. Bremer came in with a direction to, do certain things. And so, now Sanchez will tell you he didn't work for Bremer. And if there was any conflict of what he was trying

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to do, of course then he raised it to CENTCOM to Abizaid. And said you need to—this is against what we need to do, and they'd work it out. - Similarly with the inter-agency folks that were there. From G8. One team was pulled together to get things going. So there are a lot of things that had to be established because there were no— Directives, MOUs, how its all gonna work together. So they had to—they had to build from scratch. So, they had to set the foundation. Build an organization which none of them had ever been-a CJTF-7- before. They had fought the tactical fight, now they're focus is at the strategic level. And that blurring in an insurgency between tactical and strategic— was very tough. And, and a lot of them could not see the differences. And some of the things that may appeared to be tactical actually were strategic.

[ ] And, they were faced with that day in and day out. Several—you know it took the Chief of Staff who would have had an oversight and directed responsibilities we know of in an Army or a Corps or whatever, kind of moved—moved over to support directly and they moved what was the Corps TAC and that element from the C2, C3, over to support the CPA. They split another piece over here with the DCG to fight the war. And then you see—okay, Sanchez and his guys, what does he got? He's also got a primary staff here to try to work all these policy and all these other issues. So they're—they're—because of resourcing and the way they were set up and the missions that they were given, they torn in three different direction. And oh by the way, you know, all the Division guys and Separate Brigades went –morphed from twelve to eighteen separate Brigades. All these people are waiting for guidance, direction, and so forth. So it was really a— a challenge. And so, the primary guys across –across the subordinate staff starting to focusing up here and by default the lower level guys and—had to work all these other things. That's why I say the lower level C2x, which was created by the way, there's just a couple of those folks left, came from the V Corps things that had to built up. The residual SJA guys kind of running the show because the leadership is pretty occupied fighting the war, supporting the CPA, trying to figure out—try to get the Coalition guys to come on to establish a customs capability. You know border protection. Border Police. Training the Iraqi Army. Trying to, partner with the Iraqis that were left to work an intelligence system. Trying to figure out how to morph this so that eventually they can appoint a interim— Prime Minister or whatever to Iraq. And so that's what ate them up. And so what limited time they were able to get out and see what was happening they couldn't see it because, it wasn't there at the time. Okay. Jones is coming down to visit not a problem. So he was up there with them. You know you go back to decisions made Abu Ghraib, which sit right on the seam between two units. So who's in charge of physical security? It's not the 3rd ACR on this side or the 82nd on this side. You know, because it's a seam right there and seams in military doctrine means we have no—we don't own

that piece of dirt. We have what's outside it, but I only come around 50% of my side and fifty—and that's why— initially and then also in that period they put in it a sector which you know Abu Ghraib has a history. That's where Saddam Hussein tortured and killed all the people. No control outside. No engagement with the community through Civil Affairs or other people. Nobody focused outside the wire because I'm inside the wire. This is my piece of dirt. So it was not set up for success in the selection either. Which we also looked at.

[ ] So those are some of the things when— you know when Casey went in, we saw early on and he started fixing when he went in. When Abizaid went in, he said, you know, it's another thing. You gave the CJTF-7— not only JTF responsibilities but also ASCC, Army Service Component Command and ARFOR responsibilities. And it's one person and he's a Three Star. By the way, he is a brand new Three Star. He didn't complete two years in command as a Division Commander. So, it said in my report he went from commanding about a fifteen thousand person Division to a Coalition of a hundred and eighty thousand people. With all the different countries, to pull that together. It overwhelmed him. Overwhelmed the staff.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Sir, you've fairly thoroughly laid out the context in the environment they were operating in. Given that, but at the same time giving folks duties based on their position or their rank or whatever, did General Fast's action or inaction regarding these interrogation policy memos in your view rise to the level of negligence or inefficiency?

[ ] A. I don't think so.

[ ] Q. For those reasons that you had-----

[ ] A. No, I think General Fast in what she was able to establish was probably a hero. I think Sanchez was too. They did Herculean kinds of things just to move the—move Iraq along where it got to.

[ ] Q. Yes, Sir.

[ ] A. I mean given they had much to do, could have got into it. You know I think it— I think it was a combination where that was staffed or where it wasn't staffed—certainly the intelligence community. The other problem we've got—you know we don't have any officer experience in interrogation. It's all enlisted. All lower enlisted, sergeants, and warrant officers. And that's a thing we found that we have to start

building that expertise. And we created a C2X HUMINT course out at Huachuca that will take anywhere from sergeants all the way up to field grade officers through that course.

[ ] Q. Uh, huh.

[ ] A. To expose them to getting some of that stuff back into the Captain's Career Course and those other places. We just, you know, I could be a Major or a Lieutenant Colonel and may not know if those interrogation techniques are good or bad.

[ ] Q. Right.

[ ] A. Because I'm not trained in HUMINT.

[ ] Q. Yes, Sir. Sir, we know that the first interrogation policy memo was reviewed by the Legal Office at CENTCOM and they had some objections to it. Where you aware of what the objections were? Just in general.

[ ] A. In general they didn't—they didn't think that the—the expanded number of interrogation techniques was— necessary. Two, they had already responded in early June that we're complying with the doctrinal techniques. That's all we're using.

[ ] Q. Uh, huh.

[ ] A. And they responded back to the Joint Staff on that.

[ ] Q. Yes, Sir.

[ ] A. Saying we're following directly what's in 34-52. That was the response sent by the Deputy CENTCOM Commander. Actually sent out of MacDill surprisingly back to the Joint Staff in response. Because there's a query that went out saying what interrogation techniques are you using, you found useful, and so on and so forth.

[ ] Q. Right.

[ ] A. And they came back and said we're just using the doctrinal manual stuff.

[ ] Q. Yes, Sir.

[ ] A. So that kind of surprised me.

[ ] Q. Did CENTCOM conduct a legal review of the second memo, the one that was published in October or do you know?

[ ] A. I don't know. I don't know. I'm sure it was probably provided to them.

[ ] Q. Yes, Sir. Sir, was it reasonable that General Sanchez should have realized that some of the techniques in the memos may have been, for a want of a better term, 'problematic'?

[ ] A. I think when he read it and I talked to him, like for example, the use of dogs. His interpretation of that was muzzled dogs and not in an interrogation but presence for security was okay. So he was interpreting that that dogs were present. Not in an interrogation room but within the facility as security things. That's his interpretation of the use of dogs. Although it wasn't written that way in the first memo.

[ ] Q. Right.

[ ] A. In the second memo then I—as you bring that up, you know it's still unclear because it says, if dogs are used in interrogations they must be muzzled. So its an interpretation that in the room—the interrogation room-----

[ ] Q. Right.

[ ] A. Or in the vicinity—and how he saw that.

[ ] Q. Yes, Sir.

[ ] A. And that's—I didn't ask him if he compared them and so forth. He trusted in his legal counsel and asked if it was in compliance with the Geneva Convention and they said, Roger.

[ ] Q. Yes, Sir.

[ ] A. And I think he felt the safeguards put in there were sufficient such that— they come back to me anyway if they want to do anything other than on the list there.

[ ] Q. Yes, Sir. Sir, the report found that the memos did not adequately set forth the limits on interrogation techniques. Can you elaborate on that? How should it have been written differently?

[ ] A. I think it— we found from our standpoint it didn't set forth the limits because it left an interpretation by the junior Soldiers and put them in a compromising position.

[ ] Q. Because it included techniques that were not listed in doctrine?

[ ] A. That's right, plus the safeguards were vague.

[ ] Q. They weren't—.

[ ] A. And plus in the second one it only addressed security folks.

[ ] Q. And what kind of misinterpretation do you think that led to?

[ ] A. I think it further confused some of the folks who, because of lack of leadership, were left to interpret that and question it, it left some Soldiers to interpret it—interpreting it themselves.

[ ] Q. Uh, huh.

[ ] A. And some Sergeants to interpret the intent of the commander. So it—my thoughts there was that— as you look at the three things I looked at, in terms of responsibility when you give someone a mission all right, is it—do you provide clear and concise or succinct or consistent guidance, do you—give them the resources to execute their mission? And or you directly or indirectly responsible for execution of that mission? As I look at— culpability of the person. And the one thing I fault those two memos on. Because if you look at—you know doctrine is one thing. So it's a guideline. So if you want to add emphasis to a given area, you take the doctrine and you build a standard operating procedure. Which everybody clearly establishes the standards or you emphasize—reemphasize points and terms of the policy memo and so forth. What to do and not what to do in accordance with whatever reference you're using.

[ ] In this case, obviously they've taken the SECDEF's memo and interpreted an intent and then, using that as a source plus other SOPs proliferated and sources falling within the intent, which they thought were the SECDEF's that could be used with safeguards. And then passing that down. So they're taking a—something that was not meant for the theater and interpreting it and pushing it down to junior level Soldiers. And so it didn't provide clear and consistent guidance. Nor do I think Pappas stepped in and did the right thing.

[ ] COL (b)(6)-2 & (b)(7)(C)-2: I think we have a pretty good understanding. I think my understanding right now is did you believe that he was using the intent of the SECDEF memo in trying to place some controls on that to ensure it was executed properly, but that failed in execution because they may not have been aware of it?

[ ] A. I think so. And I think that was the counsel. By his legal.

[ ] COL (b)(6)-2 & (b)(7)(C)-2 Right, Sir.

[ ] A. And that was then to be passed to the 205th Commander then to execute his interrogation and collection effort. Similar at the same time what was going on originally—you've talked about the C2 role, the thing that Fast did do—was prioritize information requirements. We had in the summer—she got to doing her assessment—and Miller's assessment. You know there were hundreds of intelligence requirements that are focused. And so one of the efforts that the C2 did do, and also Miller recommended that you prioritize your information requirements. What are you looking for, you know, versus everything and everybody. And that was helpful as we started getting into the fall and we started getting focused on what they were looking for from the battalion all the way up to division and then in the detention facilities. With the exception of the ISG and that relationship was—one if we don't work for you, we don't necessarily have to pass you anything. Which is also another issue.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Yes, Sir. Sir, going on to the next finding. Lieutenant General Sanchez and Major General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. Sir, can you tell us what specifically you feel that they failed to do to provide proper staff overnight? And if you would like you can take them one at a time.

[ ] A. As I said in there, in hindsight what I would have done because when you lose your Chief of Staff and now— you've got the C1 responsible for people and ensuring they've got backfills, MP shortages and other things. The C2 is setting the intelligence requirement collection priorities. You've got the C3 overall in charge of detention operations with some execution responsibilities with the Provost Marshal. You've got the C4, responsible for the support—logistics and so forth. You've got the DCG establishing priorities not only for the detention facilities but for different base camps and getting the LOGCAP in and

construction and so forth as working with the C4. And so, there's the separate Brigades under the—when Wojdakowski come up.

[ ] You know they could talk to him but then there's no Chief of Staff running around. So then, they have to go to individual staff sections and talk different issues. Not one person to come to. So in hindsight my perspective was—Sanchez should have made one person in charge of detention and interrogation facilities—operations for the Go To Person directly working for him. Because you had Bucca, you had Abu Ghraib , you had Cropper, you had the MEK facility, you had the holding areas of divisions. You've got a number of these things going on. Different oversight levels. Which the staff responsibilities then were separated and no Chief of Staff to help direct that. And you've got Wojdakowski over here prioritizing. And initially Abu Ghraib was a temporary facility. So he gave it very little priority. And quite frankly in the summer everybody was living in pretty shoddy conditions. But seeing it as a temporary he was not going to invest long term in LOGCAP and other things. Then Sanchez visited and he said I'm not gonna have my Soldiers living like that. Let's get some thing in there to fix it.

[ ] There were some equipment issues with different MP units coming in, in terms of normally different types of MP units have crew served weapons and so forth and different things. These guys moved about. Some of them had their equipment linking up with them, so they needed more mobility and crew served weapons to set up. So some of those things had to be fixed. And so—but it—it did not fall upon somebody, one person, to oversee those things and get things moving. It fell upon different—from my opinion different elements of the staff to do different things, so it did not become, without the Chief of Staff, a synchronized effort, to fix things. A lot of it was defaulted to subordinate commanders, Karpinski and Pappas, because they were Commanders; and Karpinski had the detention operation. Pappas had the interrogation/intelligence collection mission through out the theater. So, they by default, that become decentralized. Okay? And as they got visibility obviously the hindsight says I probably would have done it different and with the one person of compatible rank based on the magnitude of the effort I think I said, the direct—the Pappas's and the Karpinski's and so forth of the world to get things right. And it—otherwise it just got sporadic attention because of their focus other ways.

[ ] So I found that looking back once they made a decision to make a strategic collection point of that magnitude, they should have put one person as the Go to Person in charge.

[ ] Q. Uh, huh.

[ ] A. We kind of got at that for Abu Ghraib when he appointed Pappas for the—actually appointed him for Force Protection kind of reasons and the MPs still had the inside the wire security of the prisoners. The Intelligence guys still had the interrogation piece but he was looking then at the base camp security.

[ ] Q. Uh, huh.

[ ] A. Probably the genesis of that issue was putting it on the seam of two units.

[ ] Q. How about General Wojdakowski, Sir, and which staff did he fail to provide proper oversight for and what should he have done?

[ ] A. See, I think he was partisan to that because without the Chief of Staff the DCG has gotta do some things. Again in hindsight what I would have done, you had two new Brigade Commanders. They both swapped out the end of June, the first part of July. He made some—first of all he never really accepted the command relationship of the 800th, that TACON, TACON relationship. But in fact, it did not matter as much is because those people worked for him. They're separate Brigades although it went from twelve to eighteen. That formed a subset of separate Brigades worked for the DCG. So, what he had was two new commanders who were not experienced in the theater. Of which, he could not have known their level of experience. One came out of the War College and one came out of the RC ranks. They probably demanded more oversight and direction.

[ ] Q. Uh, huh.

[ ] A. Than they were given. Now on his behalf he was again trying to get the LOGCAP set up. All the logistics, which fell so far behind the rapid advance to Baghdad, the immature lines of communications and securing those lines of communications and establishing the contracts to get the supplies moved forward. Our equipment having just gone through the war needed a lot of attention, getting the parts in. So he was, you know he—he let those Commanders execute their mission in a decentralized way. Whereas I think in retrospect, he probably should have brought those two and gave them guidance that is more specific because he was in their direct chain of command.

[ ] So when I look at those perimeters of responsibility for execution of the mission direct or indirect, the clear and consistent guidance and resourcing to do their mission, I found that in retrospect those two units needed more attention.

[ ] Q. Yes, Sir.

[ ] A. And you had other MP Brigades and other people—because I don't think that the two commanders as they showed up at the same spot at the same time neither had the experience or leadership to execute the mission.

[ ] Q. And should General Wojdakowski have recognized that given the circumstances?

[ ] A. I think he should have.

[ ] Q. And—

[ ] A. I mean if you think about it, he had just fought the war, gone through the prep, the training, now I've got two new Commanders. Didn't go through go the fight with me. I've got a lot of things on my table. But—they were probably—one probably didn't accept any guidance or leadership. The other was probably hungry for it.

[ ] Q. Uh, huh.

[ ] A. And how he recognized that, I'd have to put myself in his head to try to figure it out, but it appeared to me that those were issues.

[ ] Q. Yes, Sir.

[ ] A. He had two new Commanders in theater.

[ ] Q. And the one that didn't want guidance was General Karpinski and the one that was hungry was Colonel Pappas.

[ ] A. Karpinski— from my experience and opinion is one who wanted the position of command but did not want to go accept the responsibilities that go with it.

[ ] Q. Uh, huh.

[ ] A. And you'll see very many times in her statements and I don't know if you've read those or not.

[ ] Q. I have, Sir.

[ ] A. You find her sometimes back in Kuwait. She left some of her staff back there. She had to be told to move her staff into Iraq.

Different times she had to be told to go check on like the MEF facility up at—you know you had those Iranian freedom fighters and so forth. And that gives you—and then Sanchez had a confrontation with her about stepping up and taking charge. You're in charge. You've got this mission. How can you let the Soldiers be like this? And so there were indications there that she was weak.

[ ] Q. Okay.

[ ] A. And it was obvious that Phillabaum was weak and she didn't do anything about that. But she—you know she sent him back for two week R&R in October. Brought a Colonel—

[ ] Q. (b)(6)-2 & (b)(7)(C)-2

[ ] A. (b)(6)-2 & (b)(7)(C)-2 in from Cropper who's obviously fat, dumb, and happy up there because he's got a mixture of detainees at the MP Battalion. So it's pretty easy for him. He comes in and just sets up shop for a couple of week and then brings Phillabaum back.

[ ] Q. Uh, huh.

[ ] A. Probably not the right thing to do.

[ ] Q. Sir—oh, go ahead.

[ ] A. In Pappas' case, his experience led to the lack of making a decision to making somebody in charge at Abu Ghraib. You know he had other Battalion Commanders and so he could have moved in there and set up a clear chain of command to execute that mission.

[ ] Q. Uh, huh.

[ ] A. Especially as it grew to the number of people there. Overwhelming the intelligence.

[ ] Q. Sir, was General Wojdakowski's failure to recognize this need for perhaps additional oversight, in your view, did that rise to the level of negligence or culpable inefficiency?

[ ] A. I think it was a shortcoming on his part. I don't think it was negligence.

[ ] Q. Uh, huh.

[ ] A. Primarily because of the magnitude that he was faced with. Overall faced with.

[ ] Q. Okay.

[ ] A. Your span of control if you had 12 Brigades or 18 Brigades that you had just moved up to, plus he was now running another set of the staff to fight the war. So, again it became another issue with him of the responsibility and no time to do it.

[ ] Q. Yes, Sir, did you run across any evidence that a request was ever sent up for another Flag Officer to come in and serve as the Chief of Staff?

[ ] A. Okay, well another Flag Officer came in. Oh, you mean—for the JMD you had a Two Star Marine Chief of Staff.

[ ] Q. Uh, huh.

[ ] A. That was—he came in, in August.

[ ] Q. Okay.

[ ] A. But he went over to the CPA then to run that operation.

[ ] Q. Right.

[ ] A. So he didn't run the CJTF-7 staff per se.

[ ] Q. Who did run the staff, Sir?

[ ] A. As the Chief of Staff?

[ ] Q. Yes, Sir.

[ ] A. I don't think anybody did.

[ ] Q. Okay.

[ ] A. I think, (b)(6)-2 & (b)(7)(C)-2 who was the Chief of Staff for V Corps morphed over to support Wojdakowski, in the fighting of the war. And then he left. He would have been kind of the Deputy Chief of Staff for the Marine Two Star coming in.

[ ] Q. Uh, huh.

[ ] A. When he moved to the JMD the Marine was - actually the Chief of Staff over an Army staff. Each staff entity as it morphed to a General Officer would pretty much execute the duties. I think that's the way it fell out.

[ ] Q. Yes, Sir.

[ ] A. I think the closest thing you had to it was probably Miller as the OPS guy.

[ ] Q. Okay. All right. Sir, the next finding---

[ ] A. And that's the indications I have after looking into the thing.

[ ] Q. Yes, Sir. Leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Now this was a finding in the Fay Report but I was wondering if you could comment on which leaders specifically failed to take these steps to manage the pressure?

[ ] A. I think Fay saw that down at Pappas' level and below. The pressure was in my opinion, and as General Kern and I look at it, was not abnormal. But as it morphed down to the lower levels, the interpretation of what the commander's intent was of what is it you need to do in establishing a battle rhythm and the standardized procedures was not there. So it had become as you went from CJTF-7 staff to the 205th Brigade staff down to a multitude of interpreters they were getting a magnitude of I need to know this, this, this and this, and nobody is stepping up for them in saying—and Jordan certainly didn't. Stepping up and say this is what—these are our priorities. You find that in any professional line of command but when you got to Abu Ghraib there was nobody there.

[ ] Q. Okay, Sir.

[ ] A. And that's where the pressure point manifests itself the most.

[ ] Q. Is the emphasis that General Sanchez placed on the intelligence community, did you feel that was appropriate given the circumstances?

[ ] A. I did.

[ ] Q. Okay.

[ ] A. And it—because it goes back to – his mission was to build and support operations. He's in a war. Gone now from managing a division to a coalition of a hundred and eighty thousand. Trying to find out who are these people? What is their support base? Who are their leaders? You know where are they going to come at me next? What's their tactics and so forth and as those changed daily he was getting Soldiers killed. He put a lot of emphasis on intelligence. And rightfully so because in an insurgency intelligence becomes probably more important than operations. And, you know that's why I say Fast stepped up after assessments and said well we have our hands full. We've got have these things here and she requested back to CENTCOM to get communications since they didn't have—to get, fusion capability to appease the intelligence effort. To establish a joint interagency task force to start to pull that together and get the equipment so they could reach back to the—what do you call it? The Intelligence Exploitation Center when they had something said what are you getting back there and send me—who is this guy? What you see is happening from all the sources as they tried to fuse the intelligence. So there were a lot of other things going at the same time. Where are the weapons of mass destruction? Where is Saddam Hussein? Where are his top 54 guys or whatever, the leadership? And that was a lot of pressure but they were things that had to be done. The initial going in there view as we had it was, —the question, were there external pressures from the Pentagon, the White House, and others place upon them which permeated down to Abu Ghraib? Was not the case, and I think Abizaid was a good buffer in there too.

[ ] But there was nothing coming in the unit. It was all the people in CFIC and CENTCOM left after the fight. There was no real good continuity of intelligence there either, so they having to establish from the ground up almost as it became CJTF-7.

[ ] Q. Uh, huh.

[ ] A. They looked at very—a war plan in Phase III and executed it accordingly and they were looking at Republican Guard Divisions; they were looking at the leadership; the regime, a lot of things. It all kind of faded into the sunset. Into the cities and so forth. So now they had to reestablish— what they were looking for, who they were looking for, what were their sources of intelligence? And especially after you inactivated the Ba'ath Party. You know you didn't have any structure there to go to. So now you had millions of people wandering around out there and they had to try to pull it together and focus the effort. And that's what they had to do. And that was pressure of which Sanchez told the staff and Fast you've gotta get me some information. And it also went down to the divisions and the brigade get me the information, what are you seeing out

there? Because he couldn't make any decisions. So, intelligence became a priority and certainly that is normal for an insurgency.

[ ] Q. Sir, when we spoke to General Fay—and that particular finding came out of the Fay Report. His view was the leaders that he referred to were at the 205th. He was talking Colonel Pappas on down. And do you agree with that assessment?

[ ] A. I would. And I would—not only them but the lack of leadership down there—caused that to be probably more so than it was.

[ ] Q. Yes, Sir. All right.

[ ] A. That's why I say you know you put a battalion commander in there, that responsibility, then you've got somebody with a level of experience and the NCOs and a supporting staff that will take that pressure off those kids that are doing interrogations.

[ ] Q. Yes, Sir.

[ ] A. Otherwise there is a void there. So it's like dropping through—straight through.

[ ] Q. Yes, Sir. Sir, is it your understanding that we are running out of time? Did you have—or do you have a few more minutes?

[ ] A. Yeah, I've got a couple more minutes.

[ ] Q. Okay, Sir.

[ ] A. I don't know what time you had.

[ ] (b)(6)-2 & (b)(7)(C)-2 I thought we had an hour and a half, but—

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Till five o'clock.

[ ] LTG JONES: I thought you went to 5:30.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Okay. Good. Sir, the next question. There was neither a defined procedure nor a specific responsibility within the CJTF-7 for dealing with ICRC visits—ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. And that was a finding in General Fay's report. And, we have a understanding that the MI, MP, and CJTF-7 personnel would have included—well certainly for MP General Karpinski

because she provided a response. CJTF personnel would have included the folks in the SJA Office. Which MI personnel do you think he was referring to? I mean was there any indication—any indication that you recall?

[ ] A. What as the finding again?

[ ] Q. There was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with ICRC visits. ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. And we're just trying to pin down who those people that ignored----

[ ] A. Well certainly Jordan ignored it. As you heard earlier.

[ ] Q. Uh, huh. Okay.

[ ] A. The problem with—and you heard this a while ago. The problem with the procedures with dealing with ICRC which Abazaid also said in his testimony in May, the system is screwed up. We have no system for dealing with the ICRC in this environment as we went into it.

[ ] Q. Uh, huh.

[ ] A. So there was—I understand what was said as far as—a lawyer escorts the ICRC people. But our doctrine heretofore doesn't deal with a strategic detention facility.

[ ] Q. Right.

[ ] A. We talk about in the linear doctrine, the holding areas as you know, battalion, brigade, division and evacuation back. And so when we created a centralized detention facility, in Guantánamo and now in—Abu Ghraib we did not—address access by ICRC. We know it happens and so forth. But there is no given staff responsibility to interface with them. If you—up in Baghdad if you talk to the people, the International Red Cross person, the relationship with the CJTF-7 staff was all good and worked with them and so forth. But when you got to the lower people running around the country they work and—down to give that to the brigade level. Sometimes it didn't come up. That was later fixed. At the time as you established a facility, they didn't give specific responsibility to interface at the lower levels. Okay? And it was probably not handled well.

[ ] Q. Uh, huh.

[ ] A. And some of that is the culture of—even in the international community, we saw it in the Balkans, I appreciate what you're telling me but this is what my rules say and so forth.

[ ] Q. Uh, huh.

[ ] A. Or whatever and then the access piece is not always clear. So we probably as a Nation need to address that better and I think that's already being worked with the Secretary of Defense establishment, the Assistant Secretary for— what is it? Policy and so forth of which now deals directly with the International Red Cross and going towards setting how we as a Nation would deal with the International Red Cross.

[ ] Q. Yes, Sir.

[ ] A. But that led us to also say though, that—as you get—if you use that as another indication of warning that should trigger something with somebody on the staff. Gets out and takes a look and advises the Commander. Because where there is some smoke there may be some flames there and we didn't see the Inspector General doing anything. Going out there and checking on that. It was left to the legal review. And the comments back down, they went down and said what do you guys say, ah, it's not true. You know? Well, okay. But some of it probably was.

[ ] Q. Do you recall who the IG was then, Sir?

[ ] A. No, I don't.

[ ] Q. That's fine. Did you have any indication that General Fast or General Wojdakowski were aware of the ICRC reports?

[ ] A. Fast first saw it in December of 2003 or got—became knowledgeable of it about the same time Sanchez did.

[ ] Q. Okay.

[ ] A. I don't know if Wojdakowski did.

[ ] Q. Okay. But you-----

[ ] A. But I think it was passed back down to Karpinski to sign and respond to.

[ ] Q. So General Sanchez was made aware of the ICRC reports. Was that before or after the pictures came forth?

[ ] A. It was right before.

[ ] Q. And what was his reaction?

[ ] A. He didn't have a big reaction because you'll remember that Warren had advised him it wasn't true. It was not substantiated. Based on what his guys had told him, this couldn't be true. So based on that advice, and at the same time they had just captured Saddam Hussein so they were spinning in a different direction. So he said okay I got it.

[ ] Q. Okay, Sir. Was his failure to take action, did that rise to the level of negligence or culpable inefficiency?

[ ] A. I don't think so because so because that was—he had trust and confidence in those guys who advised him and they said it couldn't be true. Or it was not significant in terms of what they— was claimed. And so he moved on to other things.

[ ] Q. Yes, Sir. Okay. All right, the report talked at length about the operational environment contributing to the problem, between the V Corps transition to CJTF-7 without being fully resourced; the support to the CPA exceeded the going-in operational plans. And of course the operational plans themselves envisioned a SASO, support and permissive environment. Given that, how does this relate to the actions that were taken by senior leaders in the theater at this time? It kind goes back to this negligence and culpable inefficiency standard that I keep harping on.

[ ] A. Yeah.

[ ] Q. But in particular how does that relate to the actions of General Sanchez and General Wojdakowski and General Fast?

[ ] A. They were still operating off the base plan.

[ ] Q. Uh, huh.

[ ] A. The base plan obviously was given to them by CENTCOM as a subordinate element. So—I think the—not as much with Sanchez and his team trying to execute the mission given to them—when the CENTCOM Staff and CFLCCC went away, there was no revaluation of the campaign plan. Or the assumptions went into it. I think that's fault more of CENTCOM than it is Sanchez. Now he—what they did, was they used FRAGOs to adjust and so they did take—obviously, this is not a true change made, they rewrote—mission orders using—still using the

sequence of fragmentation orders, which was kind of normal because they still had the CJTF-7 staff there. So—and quite frankly they didn't have time or the resources to sit down and rewrite the campaign plan. So they did the best they could with what they had to work with.

[ ] Q. Uh, huh.

[ ] A. Subsequent to that now that you've got a Four Star in there and separated—the kind of Title 10 ASCC responsibilities from the warfighting responsibilities, because you've got MEFs now executing the war fight in the subordinate units and direct oversight and now you've taken the burden of doing that away from them and giving that to Casey and working with the Coalition in doing that. So that was probably the right thing to do. So that changed. Abizaid recognized quite quickly you know. He stopped—last summer he stopped losing people because now you gotta redeploy all these people. We've got a fight on our hands. So it was recognized and he started taking some action. He said I need a Four Star in there. I need two Headquarters. I need somebody in charge of detention and interrogation operations and so fixes then become pretty clear. He saw some of the same things we saw as we started looking at it. And he implemented them. So that's good. And I think you see the results today and the progress than they were from Abu Ghraib to—the division of responsibilities. And the level of responsibilities again a Four Star with experience.

[ ] (b)(6)-2 & (b)(7)(C)-2 Sir, did you want to ask any overarching questions before we—we're sort running out of time.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 I have a few , Sir.

BY COL (b)(6)-2 & (b)(7)(C)-2

[ ] Q. Could you give us a sense of CFLCC's involvement down in Kuwait? I mean we have—we have Karpinski's brigade which is TACON to CJTF-7 but owned by the—I believe the 377th TSC in Kuwait at that time under ARCENT General Taguba and General McKiernan. I understand the—the confusion, or not the confusion, but the support difficulties, the TACON relationship established. That's pretty clear in the report. Are there any specific responsibilities that the Commander of the 377th had as General Karpinski's direct boss or CFLCC that contributed to some of these failures?

[ ] A Yeah. I f you read the order, and I don't know if you have or not. The relationship—well when you established CJTF-7, CFLCC disbanded. So CFLCC the Combined Forces Land Component Commander went away. Okay? But CJTF-7 becomes the supported

Commander in the Iraqi Theater of Operations. That also was true for ISG which I didn't recognize. There was the Theater Support Command-and the relationship as the plan was, the detention facilities were never planned to be the magnitude they were and so they retained that TACON responsibility—because eventually there would be a term employment to hand back over to the Iraqis. And so okay I'm done with that. Envisioned to be no more than about six hundred people-detainees-after the end of hostilities. And that Brigadier General Hill also said that in the May timeframe. Other than the MEK guys up to about three thousand in one compound. And so it was never envisioned to that magnitude. So what they wanted to do was retain—the 800th intact so that when it went theater they wouldn't take their assets and move them here to Kuwait, which they could if they're being intrusive if they're TACON. So they kind of re-held that TACON relationship based on the previous plan. And for a lot of the other forces, the SOF forces the TACON relationship, keep the Commander informed, execute your mission, worked out okay. But with this Commander who reluctantly moved her staff up there, still saw—envisioned that—responsibility for the detention facilities but still working for the 377th, so she used that kind of both ways. In turn she says, CJTF-7 you gotta support me. I need this, this, and this and so forth. But in reality her support base by a TACON relationship is the 377th. Because the logistics support of units that are TACON still rely upon the parent unit. That didn't happen. And then the 377th changed out commanders and so forth. They didn't see any role in supporting the 800th. They—that's a CJ—that's in theater. So that's where the confusion and it really convoluted relationships that came into being.

[ ] And I asked Sanchez about that. I said, you know you had so much problems here, why didn't you go back up for change in relationships? He said, well I didn't see it to be a need because I've a General Officer, they've got a mission to do. I expect her to do it. And—I didn't have any other problems with other people who were TACON to me. But in this case Karpinski played both sides against the middle. You know, ran around the country. Whatever she wanted to do. Because I think that's why she kept going back to Kuwait, to keep that relationship going. And then it really manifests itself at the end with who does my efficiency report.

[ ] Q. Would it be fair to characterize General Sanchez's perception of this problem with General Karpinski then as a leadership problem with his Commander versus a Command relationship with the TACON versus OPCON?

[ ] A. I think so. Accepting ownership of the mission and doing the things she has to do to execute that mission. I don't think she ever accepted ownership.

[ ] Q. One of the reports we read basically stated that there were failures on the part of CFLCC—in planning for insurgency. From the information you've given us today they were clearly out of that picture in about the June 2003 timeframe.

[ ] A. They diverted back to Doha for the responsibility for Kuwait and Saudi Arabia and/or of the RSO.

[ ] Q. So in that instance they had no planning responsibility for anything going on in Iraq post about the June 2003 timeframe?

[ ] A. It was something like 14 June I think. You gotta remember the relationships between those two staffs soured a little bit. Because V Corps guys, seemed they were left holding the bag. No resources. No—now—now I'm the CJTF-7 and nobody is giving me the resources. In the meantime some of those guys who were at Doha left. You know? If you look about the CFLCC staff they were pretty well equipped. You had J.D. Thurman there. You had a lot of good horses to help McKiernan be the CFLCC Commander over Wallace and/or the MEF, the Marine guys. And so they were staffed accordingly to do that. When they diverted and went back to Doha a lot of those people left. At the same time the guys in Qatar said our mission is kind of done now. We're into a stability and support operation. We're out of here. All those Air Force guys and other people. So—the appearance was the only people you had left was Abizaid and McKiernan and Sanchez and his staff. Everybody else could come new.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 do you have any other questions?

[ ] (b)(6)-2 & (b)(7)(C)-2 Just one last quick question, Sir, and it has to do with Major General Geoffrey Miller's visit.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. In the September timeframe.

[ ] A. Yes.

[ ] Q. When he came over and the finding in the report was that his visit, his team, did not introduce any harsh techniques into the theater.

[ ] A. Uh, huh.

[ ] Q. But that some of his team members—inadvertently validated some techniques that may be in violation of the Geneva - Convention. Specifically use of nudity, and the presence of dogs. Did you see any failure on Major General Geoff Miller's part to ensure that that inadvertent validation of interrogation techniques, that that not happen? Did he have any role?

[ ] A. No. In fact I think it was done only—it wasn't—and I think Fay's report found somebody from the GTMO team was not reporting.

[ ] Q. Right.

[ ] A. And I don't know if it was during Miller's visit or right after that, they also sent some—a team from GTMO over to assist in training and doing things and that's when that subsequent members by some members that he sent over a team to assist and that's when that particular person saw the nudity and so forth and didn't do anything about it. And by not doing anything about it, he condoned it.

[ ] Q. Yes, Sir.

[ ] A. That's Fay's position.

[ ] Q. In fact that team as I understand it was OPCON to the 205th before the duration of their time?

[ ] A. For some--yeah, for when they were there. I don't know--remember how they were there. That's when--what happened was about October or so, that was a result of, the end of September-October the population increasing. Fast actually went back--and staffed through CENTCOM saying we need more interrogators. And that's where you got the guys out of California, INSCOM provided teams; provided a few teams out of GTMO, came in there about October timeframe. Different groups to help beef up the interrogation. Different periods of time they were there at some point.

[ ] Q. Okay.

[ ] A. And that's when the Interrogators were about fourteen or sixteen and they grew to about forty or so. Still way less than we needed. And up at Cropper you got you know a bunch of them, of which (b)(2)-3 & (b)(5)-1 would not release to support.

[ ] Q. Right. That was the ISG folks?

[ ] A. Yes.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Sir, as we conclude the interview, I'd like to ask you one final question and kind of round things up. Again I appreciate your time today. You've been extremely forthcoming and very helpful to our efforts and to the Army.

[ ] LTG JONES: No problem.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Thank you for that.

[ ] LTC JONES: Trying to remember it all but more I tried to forget.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Sir, you described a complex, violent and horrid environment where CJTF-7 Soldiers, units, and leaders prosecuted a counter-insurgency operation and performed above all expectations. As part of that your investigation laid out numerous facts and made findings pertaining to activities regarding alleged detainee abuse. Sir, in your opinion as a senior leader, did the actions of any senior leader we discussed today or others you may know of, in your investigation, constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[ ] A. Not above the Brigade. With the exception of--I'm--I was looking at the Chain of Command, focus. Now if some of the staff in terms--okay, and I looked at and elaborated what Barb Fast and Sanchez--but this is an intelligence issue. In my opinion, although great officers I think there was--Colonel Warren--probably was negligent in terms of keeping the Commander informed based on what I saw and the counsel he provided. A tough thing to say based on what they were doing, what they were trying to do, but I think he--his Staff gave him bad advice and I think he accepted it, and his level of experience having been in-country, and his knowledge of the Geneva Convention and things could have led him down a different road.

[ [ I think there's bad decisions and bad acceptance of the missions and how they executed the mission by both Pappas and Karpinski. But I feel that the senior leadership that was the chain of command albeit responsible as we see in the Army for things that happen and do not happen, in terms of what they're responsible for in hindsight they could have done some other things, but I think they did tremendous work based on what they were tasked to do.

[ ] COL. (b)(6)-2 & (b)(7)(C)-2 Thank you, Sir.

BY (b)(6)-2 & (b)(7)(C)-2

[ ] Q. All right, Sir, do you have anything else you wish to add?

[ ] A. I think the comment we just talked about having visited there and been in Afghanistan, I think we owe a debt and gratitude to a lot of Soldiers who are doing the right thing. Even in Abu Ghraib there were NCOs on the dayshift who were doing the right thing. There were Soldiers within the 320th MP Battalion--they all worked right there in Ward 1a, 2a, and 1b and 2b. There were others there that were doing great work. Trying to do what was right. I think the incidents of misconduct should be taken as that and let justice do its right course for those people that revealed that they have done clearly criminal acts in what they did. I think our Army has learned about this. I think we'll move forward. We've already implemented a lot of changes that will make things better. But I think we as a Nation have got to wrestle with some of the issues out of this. It's not solely Army. It's how we get into theater and a culture such as this and how we learn from it, and, how we grow leaders to adapt to it. And, we have to look at our leaderships in all components in what we prepare them to do as they get into an environment like this. But, you know I think our values are still sacred. I think our focus on leadership and getting competent and confident leaders is still critical. Presence of leaders at critical points and times is still important and I think that marked discipline is doing what's right when nobody is there. And that clearly didn't happen at Abu Ghraib.

[ ] I think there was some--decisions in hindsight which could have been done better. But when you put it in perspective-- and the counsel that the leadership is receiving, I think they had to make some tough calls and they made the tough calls and that's the way it is. And we move on. The two things that bothered me the most, we didn't set this unit and these leaders up for success and we're part to blame. Because we dealt them a situation of which their level of experience-- their level of resourcing was inadequate for us as a Nation to put them in harm's way. And not give them appropriate resources that they needed. And that's a travesty. And so the fall out of all that is people are trying to point fingers. What people did or didn't do is we have to look at ourselves because we're part of this also. We as a Army. We as a Nation, a joint community, didn't step up and help them when we should have and that' s terrible.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] LTG JONES: And we can't forget the impact that this has had on Soldiers, families, not only the General Officers that are still left out there hanging to dry, but look at all the other folks of different echelons. Those kids I talked about in the 320th-- some of the others in the 519th-- the 800th MP Brigade-- they talked about taking the flag down because we kind of stood in the Brigade because it's got a rich history and people have served in that, so this has impacted a lot of people and the unit-- I think the coin now in Abu Ghraib and those who are serving there have something that said, something about recovering their honor.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes.

[ ] LTG JONES: That says something.

[ ] (b)(6)-2 & (b)(7)(C)-2 Who else do you think that we should talk to and why?

[ ] LTG JONES: I'd talk to General Kern.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] LTG JONES: Who was the appointing authority. He'll give you--again now you've heard General Fay's insight focused Brigade and below and really did a tremendous job for about six or seven months. I came into this June the 25th and lasted three or four months. General Kern came a week or two before I did, and I think his perspective as a senior leader would also be good. We've also traveled--he's been there several times. Before this ever--this event, visiting Logistics people and seeing the Soldiers and he has a good feel for the environment. He also has a good feel for that-- CJTF-7 CFLCC relationship and how all that took---CFLCC then becomes ARFOR and become responsible for in the RSOI and move it forward. As we--as that split because he lived it. As part of being the AMC Commander. I think General Alexander would be a good one to talk to. He's looked at a lot of perspectives from the Intel and he was also very helpful knowing the intelligence architecture was not there. He was very helpful trying to establish that. I don't know if you're going to or not-- it may be worth your while to talk to Fast and Wojdakowski. I don't know how much time you've got. To see if I got it wrong.

[ ] (b)(6)-2 & (b)(7)(C)-2 Okay.

[ ] LTG JONES: I relied upon--we had a hundred and seventy something interviews. So my guidance was not to go back and reinterview everybody. I had sufficient information so I relied on the sworn statements of a lot of people. And then focused on the bigger picture, the CJTF-7. If

you go to talk to Wojdakowski--and you may be able to pick up these people if the come back for AUSA.

[ ] (b)(6)-2 & (b)(7)(C)-2 Right.

[ ] LTG JONES: And I don't know whether you will or not. Another player may be Colonel (b)(6)-2 & (b)(7)(C)-2 who is the Deputy C2 who's working a lot of other things. If you get a chance I'd talk to Miller.

[ ] (b)(6)-2 & (b)(7)(C)-2 Geoffrey or Thomas?

[ ] LTG JONES: Geoffrey Miller.

[ ] (b)(6)-2 & (b)(7)(C)-2 Okay.

[ ] LTC JONES: To get his perspective. Because there is some confusion of what he recommended and did it permeate but-- you'll get a clarification of his perspective there which I think tracks. That's probably----two good people to talk to. Maybe Bremer. Although he's kind of outside. Mister Bremer. Does he help about the level of support he was getting or didn't get from the other agencies that would reinforce the level that the CJTF-7 had been supporting the establishment--and obviously if you talk to Mister Allawi he'd tell you the importance of people like Fast and others were to him. Just trying to get things done. Odierno was over there too. He pushed a lot of the detainees to Abu Ghraib. And I don't know if he contributed or not. To tell you what he saw and what he was reporting. And I would almost suggest that if you get a chance talk to Rick Sanchez. He's pretty open about it. You've probably seen the statements I got from him.

[ ] (b)(6)-2 & (b)(7)(C)-2 His testimony.

[ ] LTG JONES: In fact I drew a lot of my--I spent several hours with him on different occasions and he was straight with me. We've known each other a long time. You know it's hard to do. But you'll get a feel from the things by talking to him that he was tasked to do with no resources.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] LTG JONES: And where his attention was and put in perspective and then that would give you also a feel of how much his staff was working 24-7 just to meet the demands of--that the insurgency was placing on him.

[ ] (b)(6)-2 & (b)(7)(C)-2 Okay, Sir.

[ ] LTG JONES: Other than that I think you probably-- -

[ ] (b)(6)-2 & (b)(7)(C)-2 Well it's a good start, Sir.

[ ] LTG JONES: Well do you want me--how much time do you have?

[ ] (b)(6)-2 & (b)(7)(C)-2 We will take as much time as it takes, Sir. We are not normally given deadlines we try to do as thorough and as objective of a job as we can.

[ ] LTG JONES: Well if I would focus it, I'd try to get to Kern, Sanchez, Alexander and Wojdakowski.

[ ] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[ ] LTG JONES: And possibly Fast if you haven't talked to her.

[ ] (b)(6)-2 & (b)(7)(C)-2 Okay.

[ ] LTG JONES: Because I think she would give you some good insight. She's been-- said statements to myself, Fay--Church and I think Schlesinger talked to Sanchez. I don't know if he talked to Fast. It's clear to me that he probably didn't, making the conclusion that he did. But Alexander can also give you some insights on what the problems.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] LTG JONES: And Geoff Miller if you get a chance.

[ ] (b)(6)-2 & (b)(7)(C)-2: Okay, anything else, Sir, before I go into the read-out?

[ ] LTG JONES: Did you talk to Taguba?

[ ] (b)(6)-2 & (b)(7)(C)-2 Not yet, Sir.

[ ] LTC JONES: I'd talk to Taguba also.

[ ] (b)(6)-2 & (b)(7)(C)-2 All right.

[ ] LTC JONES: Because he did the MP Brigade.

[ ] (b)(6)-2 & (b)(7)(C)-2: Right. Right.

[ ] LTC JONES: And so some of the things that are periphery to us, we read his report. We read Mikolashek's report. We've read all-the reports except Church's. Also that--, Taguba gave us some insights from what he did also from the detention standpoint.

[ ] (b)(6)-2 & (b)(7)(C)-2 Right. We've read his report.

[ ] LTC JONES: Yeah, because you see the imbalance of decisions there on-- would probably you know could have shored up with the increase of the detainees at Abu Ghraib if you'd taken some of the MP assets from other some other where.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] LTC JONES: Refocus them. That didn't happen.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. Okay. Great. Thank you, Sir.

[ ] LTC JONES: Uh, huh.

[ ] (b)(6)-2 & (b)(7)(C)-2 I'll go ahead and start the read-out then.

[ ] LTC JONES: Okay.

[ ] (b)(6)-2 & (b)(7)(C)-2 We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

[ ] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[ ] LTG JONES: Testimony yes. Social Security Number and my address no.

[ ] (b)(6)-2 & (b)(7)(C)-2 That is normally redacted, Sir.

[ ] LTG JONES: Because that's--we get more credit cards coming in that we want now.

[ ] (b)(6)-2 & (b)(7)(C)-2 Right. Okay, Sir. Do you have any questions?

[ ] LTG JONES: No, I hope I've answered your--what you needed.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[ ] LTG JONES: And you know if you need me--to see me again just holler.

[ ] (b)(6)-2 & (b)(7)(C)-2 All right, Sir, will do.

[ ] LTG JONES: I'll be glad to do it. I've lived this now for three or four months and--, I think we did a reputable job in trying to get--based on the time that we had to try to figure out-- ascertain the facts and now we just gotta move on.

[ ] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. All right, Sir, the time is 1745 and the tape-recorded portion of this interview is concluded.

---

Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was transcribed and certified by (b)(6)-2 & (b)(7)(C)-2
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

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Interview of Colonel [redacted] Director, School [redacted] Fort Leavenworth, Kansas - taken between Presidential Towers, Crystal City, Virginia, and Fort Leavenworth, Kansas, on 22 October 2004 between 0919 and 1603 hours, Colonel [redacted] and Colonel [redacted]

Persons present are the witness, Colonel [redacted] and the investigating officers, Colonels [redacted] and [redacted]

This investigation was directed by the Inspector General of the Army concerning allegations of impropriety against senior officials assigned to the Department of the Army.

An Inspector General is an impartial fact-finder for the directing authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases disclosure to other persons may be required by law or regulation or may be directed by proper authority.

Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your social security account number to help identify you as the person testifying, you have been previously provided with an explanation of the Privacy Act. Do you understand it?

COL [redacted] Yes.

COL [redacted] You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue I want to remind of you the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Do you have any questions before we begin?

COL [redacted] No.

COL [redacted] Please raise your right hand so that I may administer the oath.

[The witness complied, was sworn, and testified as follows:]

Q. For the record, please state your full name.

A. My name is (b)(6)-4 & (b)(7)(C)-4

Q. Social security number if you want to provide it?

A. My social security number is (b)(6)-4 & (b)(7)(C)-4

Q. Your rank and grade?

A. My rank and grade is Colonel/0-6.

Q. Position and title?

A. I currently have the position of (b)(6)-4 & (b)(7)(C)-4 (b)(6)-4 & (b)(7)(C)-4 Fort Leavenworth, Kansas.

Q. Address?

A. (b)(6)-4 & (b)(7)(C)-4 Fort Leavenworth, Kansas 66027.

Q. And a phone number?

A. Phone number is (b)(6)-4 & (b)(7)(C)-4 The defense switch network prefix is 585.

Q. Okay great, thanks (b)(6)-2 & (b)(7)(C)-2 I'm going to turn it back over to (b)(6)-2 & (b)(7)(C)-2

[COLONEL (b)(6)-2 & (b)(7)(C)-2

Q. Okay there, Colonel (b)(6)-2 & (b)(7)(C)-2 could you please describe your duties and responsibilities when you were assigned to 3d U.S. Army?

A. I was assigned to 3d United States Army Coalition Force Land Component Command in July of 2002 and I was assigned as the Assistant Chief of Staff, C-5/Plans. As such I was responsible for directing the development of the supporting ground major operations plan from the CFLCC in support of the Central Command Campaign Plan 1003V.

Q. When did you leave 3d Army?

A. I departed 3d U.S. Army as best I can recall now on the 12th of July 2003, shortly after I returned from the theater of operations.

Q. Okay. What we're going to talk about today is some of the command and control relationships and how CFLCC and how all those organizations work together during various points in time; pre-conflict, conflict and then what I'll call the sudo-post-conflict. Let's talk about the pre-conflict phases kind of starting when you arrived in July '02. Could you describe for us the C-2 relationships between ARCENT, CENTCOM, Forces Command and V Corps as they related to 3d Army during that period?

A. Okay. 3d U.S. Army served three distinct roles for Central Command. We were 3d U.S. Army. We were the Army Service Component Command and we were the Army Forces -- or the R-4 Headquarters for the Operation and as 3d Army we were also the land component command; three distinct functions, same staff. Our relationship, when I first arrived with the Forces Command was as 3d U.S. Army as a major subordinate command of 3d U.S. Army, we were under their -- we were assigned to Forces Command. We were under the Combatant Command of Central Command and performed the functions of, as I said, Army Service Component Command, R-4, and CFLCC for Central Command.

Q. Okay was CFLCC a 1003V designation or was that a traditional -- I don't know -- it may not be the right word -- a traditional designation inherent with being assigned to that organization?

A. No, the function of the Land Component Command was a deliberate decision taken by the regional combatant commander. Prior to my arrival, 3d U.S. Army was operating as the land component command for Central Command for operations in Afghanistan prior to operations beginning in Iraq.

Q. Okay. So -- and you kind of stated this already, one staff -- ARCENT staff, if you will, with multitude of roles and responsibilities where does V Corps come into play or when does V Corps come into play initially in this ramp up, if you will, towards Operation Iraqi Freedom?

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4 [redacted]

A. V Corps -- well as best I can recall, V Corps was under the operational control of 3d Army as CFLCC when the Corps Headquarters arrived in theater. Prior to its arrival in theater, in the theater of operation and by that I mean when it arrived in Kuwait -- prior to that, V U.S. -- the relationship between V Corps and CFLCC was direct liaison authorized as they were -- as they, V Corps, or it, V Corps was apportioned to Central Command and 3d U.S. Army under previously existing war plans for contingencies in the region in Southwest Asia.

Q. Okay so when did V Corps then arrive and become operational, if you will, under CFLCC?

A. January 2003 although they had a small element that remained in country of Kuwait. Prior to that, the Corps Commander arrived to stay in January, pardon me, of 2003.

Q. Okay, now bear with me if you will as I try to put this in perspective here. I want to talk about a distinction between ARCENT and CFLCC.

A. Okay.

Q. Is there a distinction between the two?

A. There is only in doctrine and in doctrinal roles. We were one in the same headquarters and one in the same staff.

Q. How did those doctrinal roles differ?

A. As ARCENT, 3d U.S. Army was responsible for what is called the doctrine administrative control or ADCON of all Army forces in the theater mainly providing combat support and combat service support functions for all Army forces and Army support to other services as was outlined in standing memorandas of understanding and standing directives within the Central Command that are an outgrowth of the Army's Title 10 responsibilities. For example, as ARCENT we were responsible for -- as the Army force we're responsible for providing all veterinary support to Army units and other services in theater just as an example, as the ARCENT role.

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4 [redacted]

Q. Okay, did those doctrinal responsibilities change or were moved to, say, Forces Command, when you became, - I'll call it, a war fighting headquarters?

A. No. All those responsibilities remained with 3d U.S. Army in its multiple roles when operations actually began. We retained the role of the CFLCC, the Land Component Commander as a war fighting headquarters and as ARCENT or as the Army Service Component Command responsible for sustaining all Army forces and providing all Army support to other services.

Q. I guess I'm going to ask the next question; were you resources to adequately and properly perform both missions or was it not significant?

A. I will say, yes we were and of course that is -- my only caveat is that as always, relied upon the ingenuity of both individual soldiers and officers.

Q. Okay. Let's go on a tangent for just a little bit but directly related to this; how would typical requests like RFF, Requests For Forces, and those type of things move through the chain-of-command? For example, you're getting ready to move and to become on the ground in January of '03. You're identifying subordinate tasks and recognizing the need for additional resources and so are your units that are now subordinate to you such as V Corps. How did those RFFs move and what was the lines of authority/responsibility for those to be worked?

A. The request for forces process came about, to my understanding, as a -- directly from the Office of the Secretary of Defense. I was informed by friends that instead of taking one decision to execute a time phased force deployment list developed for time phased force deployment data, that the people within the Office of the Secretary of Defense wanted to exert more control over the flow of forces into theater. Therefore we would continue with a request for forces process. So all of the forces that were apportioned to us had to be packaged, if I may use that word and presented as requests for forces. The process began with my headquarters for Army ground forces. It was the responsibility of MARCENT to package and send forward Marine forces although we had a role in that since once the Marines became on the ground they were under our tactical control as the land component command.

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4 [redacted]

As far as Army forces; between my headquarters and V U.S. Corps and the various divisional planners, it would go back through the time phased force deployment data, then we would in essence task organize divisions or regiments for other force packages in terms of combat, combat support, and combat service support forces. We would cross-check what was needed with the tasks that we expected the division or that force package to accomplish for us. We applied all of our best experience in education and logic to the development of each force package. When we at the CFLCC were in our role now as the ARCENT, developed the RFFs for all Army forces, officially that information left our headquarters to Central Command from Central Command that RFF went to Joint Forces Command. From Joint Forces Command it would go up to the joint staff and down to the service components underneath the Combatant Command of Joint Forces Command, specifically, U.S. Army Forces Command. Now we also, of course, sent our requests directly to Forces Command in an effort to keep them informed because there was a great deal of planner-to-planner cross talk as this process continued throughout operations so forces command would never be surprised and that was what you would expect. We also informally kept the members of the Army staff informed so there would be no surprise there but the official flow of the request for forces would go from the Army Component at Central Command, ARCENT, 3d U.S. Army; to Central Command; to Joint Forces Command; from Joint Forces Command as a total staff package, to the Joint Staff into the Office of the Secretary of Defense and where in the Office of the Secretary of Defense, himself, approved every single RFF.

Q. Got it. Let's move forward. Let's talk about the OP plan, your OP plan specifically and here's where I'm a little bit concerned and if you think I'm drifting too close to stuff that may be on the end here, shut me up.

A. Sure.

Q. We talked about the phases of the operation.

A. Okay.

Q. Clearly Phase III of the plan was major combat operations. There were conditions that basically -- where you would identify when transitions would occur between phases and I'm looking specifically between Phase III and Phase IV where we would transition from fighting to something other than fighting, I'll call that. Can you describe, as best you can from memory, how your Op plan saw this action occurring and what would be the key triggers to move from three to four?

A. I'd be very happy to tell you that because there was -- we had marvelous professional discussions about this between the Land Component Command staff and the Central Command staff. In the Central Command campaign plan the phases were named: Phase I, preparation; Phase II; shaping operations; Phase III, decisive maneuvers; and Phase IV, regime removal and transition. At the Land Component Command and if you've read General Franks' book, by the way, that phasing construct was called the 5, 11, 16, 125 phasing construct.

Q. Okay.

A. They associated 5 and 11 with Phase I, 16 with Phase II, 125 with Phase III, unknown with Phase IV that's why I know this is pretty much unclassified because if it's in General Franks' book I've got to assume that if it stands open to the public, then it's open to you and I as well.

Q. Sounds good.

A. Now that was the construct that was presented to the Secretary of Defense and to the present; 5, 11, 16, 125 and we did not vary from that although we all knew that once operations began, of course, as everyone likes to say; no plan can look with certainly beyond initial contact with the enemy main body. We knew things would change. From our view as the Land Component Command, we saw the phases quite differently. Phase I; we agreed that was I think the theater of conditions. The conditions that we were looking for actually were in place and set prior to the president taking the decision to begin operations. Those were the entire 3d United States Infantry Division established in theater. The First Marine Division along with forces to make up the First Marine Expeditionary Force established in theater. The V U.S. Corps Headquarters established in theater and other forces moving as a part of the prepatory phase. There was pipelines that were built in country; bag farms for fuel reserves established. There were the

(b)(6)-4 & (b)(7)(C)-4

forward positioning of -- now I can't remember exactly but I want to say, eight, but I could be wrong, fuel truck companies; four, as I recall, bridge companies; all of those were established in theater prior to the beginning of operations. That marked our ability to say, 'We're done with Phase I. We're ready to Phase II.' Phase II for us is a land component [unintelligible word, counter 371] operations. In our view Phase II did not last 16 days and then there would be so called the 'G' day when ground forces crossed the line of departure. Our point was that -- was at sync, excused me that's an incorrect term now, when the regional commander told us to cross the line of departure. The moment we crossed the line of departure was G day, irrespective of what the campaign plan said. So the shaping operations that we were looking at were a series of attacks on the close and deep fights, if I can use that now construct of the Iraqi Regular Army Corps immediately -- Corps, plural -- immediately across the Iraq/Kuwait border and further continuous operations designed to destroy, deliberate choice of word, selected republican guard divisions deeper in the country around Baghdad.

Our Phase III was also called decisive maneuver but our Phase III and our construct ended but the primary criteria was when Baghdad was isolated from the rest of the country because from our view as the ground component commander, that's when decisive maneuver would be over. Multiple Corps on multiple axes would not be moving anymore and that began the process of regime removal and transition. In the campaign plan once the regime was removed that was the end of Phase III, a subtle difference significant, we thought, from the land component command plan. Why did we articulate something different? Because we believe that once Baghdad was -- itself was physically, electronically, etcetera, isolated from the rest of the country; meaning Saddam and his ability to command and control was severed from the rest of the country, then every where else post hostilities or stability of support operations could begin and we would be at the task of completing regime removal. So that's why we articulated as we did. Now that was known within Central Command. It was not known outside of Central Command and I understand the rationale why. It was hard enough engaging in the education process, again, that General Franks talks about in his book that was ongoing between Central Command and the Office of the Secretary of Defense and once we got across the idea of 5, 11, 16, 125; no one wanted to go back up to the Secretary and explain, 'Well, really the land

(b)(6)-4 & (b)(7)(C)-4

component commander has a slightly different view.' As long as we professionals understood that it was going to be -- we just did not want to go back and explain how come the land component command had a little different view and it made sense to me. Not that, you know, I was the only colonel on the CFLCC staff so -- or colonel staff principle on the CFLCC staff. Not that I was, you know, always consulted about my opinion but from what I said it made sense to me. So that was the primary criteria of our shift from Phase III to Phase IV. We also articulated from the beginning that we saw this as a blurred transition to the point where I would tell all my fellow planners and as I heard my commanding general tell all of his subordinate general officers that at D-day, H-hour everyone was involved in the Phase III fight but at D-day, H+10 minutes the guys on point were at Phase III fights and the people in trail were in Phase IV, stability and support operations. So we wrote our supporting ground operations plan with both stability and support operations -- excuse me, stability and support tasks as well as more traditionally thought of combat tasks in Phase III and then Phase IV continued but the predominance, when we actually thought we would go into Phase IV, the predominance of the task at that time was more along the lines of stability and support operations tasks.

Q. Well let's talk about that for a couple of seconds then. The end state for your Phase IV was CFLCC would establish a permissive environment for transition to CJTF-4.

A. That is correct.

Q. How did you see that evolving and who was to be CJTF-4?

A. When we began planning, there was a standing joint force headquarters slice that I believe came from Joint Forces Command under the direction of Brigadier General Steve Hawkins -- General Hawkins of engineers. That element came forward into theater and he -- his mission was to be the nucleus of whatever CJTF Iraq or CJTF-4 would be. My focus as the CFLCC was, as Central Command articulated it, their Phase IV of the campaign plan had three subordinate stages within Phase IV. Phase IV (a), stabilization; Phase IV (b), recovery; Phase IV(c), transition. My focus was stabilization, which primarily

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4 [redacted]

led us to focus on security tasks. So in the cross -- well not cross work, that's not the right term but within the coordinated work between our C-5 and the planners on, then, the nucleus of JTF-4, our first work was to articulate the decision point for that handover. As such, and just a second because I honestly just gave a presentation on Phase IV planning that's why I know all of this is unclassified and forgive me, I'm looking at ----

Q. That's okay.

A. ---- here it is. I'm looking for the presentation that I gave and I can refer to it right away -- [unintelligible mumble, counter 448] [pause] okay, our projection of our objectives for our end of Phase IV, which would then be -- not to be confusing -- but our phase 4 ended with -- also meant the end of campaign plan Phase IV(a). Remember this is all prior to line of departure crossing.

Q. Right.

A. Was that we were going to probably stay and establish and sustain the conditions for mission handover but to wit: those were a restoration of a completion of emergency repairs to vital infrastructure that the pockets of organized resistance from former regime elements would be defeated, territorial integrity of Iraq in tact, sensitive site exploitation operations were ongoing and would be transitioned to follow on forces. By that we mean there were a number of resurge component units that were engaged in so-called sensitive site exploitation, which was everything from the hunt from WMD to looking for Baathist party records and all that and since we had to track the length of time those reserve component units were in theater, we also had to project who would replace those guys. So that process would be ongoing. That was another one of the processes that we had to hand over to a follow-on unit.

Q. Okay.

A. We would have security established for logged [unintelligible word, counter 468] personnel that we were initiating the use of the Iraqi military for stability operations. One of the prime assumptions we made was that

(b)(6)-4 & (b)(7)(C)-4 [redacted]

we could recall the Iraqi Regular Army and as we all know, that was in invalid assumption later on.

Q. Now ----

A. And there is a whole list of other handover conditions. If you want I can read them all.

Q. Well no -- well let me see if I -- by asking a couple more questions along this line maybe we will get that or maybe I'll digress off here a little bit. Getting back to the stand up of this CJTF-4; you indicated that General Hawkins from JFCOM, you thought, was going to be the kind of nucleus for the standing joint force?

A. Yes.

Q. So it was never -- or was it a CFLCC mission to stand up this headquarters?

A. No.

Q. Whose mission was it?

A. Central Command.

Q. Central Command. Now ----

A. And how did that modify?

Q. Yes.

A. Well as -- once we crossed the line of departure and now let me take you back a little bit.

Q. Okay.

A. Our initial operations [unintelligible words, counter 485] we handed over, and I'll be real precise, the C-5 planners were responsible for the development of that plan. In February of '03 we handed over the plans to our future operations element within the C-3. Those were the guys who transitioned our plan into the order and then subsequently monitored the changes. At that time the C-5 began to refine [unintelligible word counter, 492] the phase 4 part specifically. Shortly after we handed over, I went to my commanding general and told him that the more we

b)(6)-4 & (b)(7)(C)-4 [redacted]

got into refining phase 4, the more complex it got and I told him that it was a true sequel and required another plan to be written. It was more complex than just a continuation of Oplan Cobra II. General McKiernan was probably very frustrated by that. I could tell by his body language but he, nonetheless, agreed and so we wrote the second operations plan that we called 'Eclipse II' to Phase IV. We, the C-5, continued to work with JTF for General Hawkins and his gang on this. It didn't change what happened in the campaign plan but it changed our focus because of the growing complexity of Phase IV. Now as best I recall it was in April as we were closing on Baghdad, the decision was taken within our headquarters, agreed upon by Central Command for a number of reasons; one of which was, there was not going to be a headquarters that was going to relieve the CFLCC and we were growing -- we were -- awareness was growing that it was going to be us, the JTF4 such as it was was disestablished and it's officers were -- I got some to reinforce my Phase IV planning effort. Other officers moved to reinforce Lieutenant General (retired) Garner's Office of Reconstruction and Humanitarian Assistance. I don't remember exactly when that was but as best I recall it was in April of '03.

Q. Okay when was the decision, then -- in the Oplan there mentions decision point 4 [unintelligible counter, 521] which was the battle handover from CFLCC to CJTF-4. Did that mark stay on the ground? I mean was that still viable decision point?

A. No.

Q. So that went away?

A. Absolutely it went away because there was no headquarters -- we were essentially handing over to ourselves. There was a -- we became JTF-7 and I could not find the exact date but I know that I recorded it because I flew to Qatar to participate in a conference representing my headquarters at Central Command when that decision was taken both that the CFLCC would become CJTF-7 and in fact that we would have the number designation CJTF-7 but I don't remember when that was. That was again either late April or early May.

Q. Okay when was the decision then made for V Corps to become CJTF-7 and how did that occur?

(b)(6)-4 & (b)(7)(C)-4 [redacted]

A. As best as I could find, again in all of the - notes that I kept that decision was taken sometime in June because it was very, very rapid. We had, as best I can recall, about 3 weeks to work -- the transfer of authority [unintelligible word, counter 542] was on the 15th of June and as I leaf through the notes that I kept, we began working with the V Corps on this task organization at how we would man the joint manning document and how many officers from our headquarters we'd move up to reinforce theirs, 3 or 4 June as best I can recall. We'd received indications prior to that but nothing official.

Q. Okay.

A. I mean official in terms of, 'here's a central command order.' I don't remember actually ever seeing one of those. I'm pretty sure there was one because -- but all those would come through the C-3.

Q. Well why V Corps?

A. They were the only -- the only headquarters we had.

Q. Okay so ----

A. First MEF was going to be relieved and withdrawn because the Marines felt the need to reestablish the MEU afloat -- MEU, Marine Expeditionary Units afloat and get their Marines out of Iraq as quickly as they could. Eighteen Corps was engaged in Afghanistan. I Corps -- there was not enough -- since I Corps was dependent on -- mostly on reserve components to the completion of their headquarters and there was some reluctance at that time to continue the call-up of multiple reservists. 3d Corps was apportioned to other places as I'm sure you know. So there was no other Corps headquarters to hand over.

Q. I guess my question then is, why a Corps headquarters for the standing joint force headquarters?

A. What was explained to me was the headquarters was there, it understood the situation, it was established in country and the regional combatant commander wanted to reestablish his Army component command headquarters so that we would revert back to a regional focus and continue to

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4 [redacted]

provide support to all of the -- to the theater vice just being a sole focus on one country.

Q. Okay let me argue with that for a second, if you will.

A. Sure.

Q. You indicated earlier that you never lost your responsibility for being the AOR force provider/sustainer but it sounds like ----

A. Not force provider.

Q. Okay well -- roger but in other words you never lost your AOR view?

A. We weren't formally relieved of the responsibility but it was understood that we would focus more on being the war fighting headquarters, CFLCC, and risk was taken knowingly in terms of looking at joint task force for the Horn of Africa and CJTF-180 in Afghanistan. That was a deliberate decision taken at the Combatant Command level. Those two other joint task forces understood they were a supporting effort and did not have to worry about -- well, we were not going to have to worry about them and actually European Command picked up some of those ARFOR responsibilities for Afghanistan.

Q. Okay.

A. And JTF [unintelligible word, counter 605] since it was [unintelligible word, counter 604] I beg your pardon, HOA -- primarily a Marine operation and so MARCENT picked up the responsibility of the support -- ADCON, if you will, of Joint Task Force HOA.

Q. Let's talk a little bit more about V Corps, basically along this same line, okay. Why not have the CFLCC become the JTF?

A. We were for a short period of time.

Q. And what caused that to change? Was there a ----

A. To the best of my understanding it was a desire on the part of the regional combatant commander to

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4 [redacted]

reestablish his theater so that his components were looking at the totality of his theater and that one of his components, specifically the ARCENT, 3d Army, was not tied down into just one country.

Q. Okay.

A. Now I will tell you that it is my personal belief that that was a mistake. The argument that I was making as the C-5 was that we should continue on with our additional estimate that phase 3-like conditions were going to last for 125 days and that we should continue the force flow and that our headquarters, as the CFLCC, should not leave.

Q. Okay.

A. Obviously that didn't -- obviously what the C-5 and CFLCC had to say was listened to and 'thank you very much but we have to take the decision in another direction.' I think it was a mistake.

Q. Now how did -- if you were involved in this, what was to be the means and method for standing up V Corps as the CJTF? Who -- was this a CENTCOM help kind of thing or was it kind of left up to V Corps or how did CFLCC get involved or, you know, what -- describe the game?

A. Part of the battle handover -- part of the battle handover of the responsibility of being CJTF-7 from 3d Army CJTF-7 -- 3d Army CFLCC and V U.S. Corps was the establishment of a joint manning document.

Q. Okay.

A. And we spent long hours looking at the V Corps staff and looking at what augmentation the staff would need both in terms of personnel and in terms of adjudication systems and all that. There were some rather heated discussions about the number of people that would go from our headquarters. Our headquarters made up the 3d U.S. Army CFLCC Headquarters had received a number of augmentees and so one of the decisions that was taken was that those officers who were on temporary duty orders of 180 days or 179 days whose time was not up, whose role -- whose functions were not needed were solely JTF responsibilities would transfer; either remain in Baghdad or move to Baghdad to augment the V Corps staff. Now I was not involved in

(b)(6)-4 & (b)(7)(C)-4 [redacted]

all the discussions across all the [unintelligible words, counter 667] but I know that from my own C-5 element and I had 18 officers working for me, three moved to -- from my C-5 section to the establishing C-5 based on the V Corps and G-3 plan to include one of the international officers I had who was then relieved and replaced by another international officer, a British officer.

Q. Okay. So it sounds like you're kind of -- V Corps is starting and you know they are doing all of this in a relatively short period of time. There was a statement stating that the assumption that the security environment would be relatively benign in phase 4. Now you made the comment that that's different from what you saw or the way CFLCC saw it, you know, talking about the 125 days.

A. That was (b)(6)-4 & (b)(7)(C)-4

Q. Yeah.

A. At that moment in time guys, we were walking around Baghdad -- walking and driving around Baghdad and no one was getting shot at. There was some basis in what we saw as fact on the ground. No one was getting shot at. There was actually a discussion going on of whether or not maybe we ought to do like the Brits were doing in Basra and have the folks take off their hard hats and patrol in soft caps to try to -- you know, that visual message of, 'see things are better.' Power was coming back on -- power was back up to pre-war standards in that period of time.

(b)(6)-2 & (b)(7)(C)-2 What period of time was that?

A. Well that was in -- between -- you know, from about the beginning of June to the middle of June.

Q. Okay.

[Tape stopped momentarily.]

Q. The time is 1515 hours and the tapes are back on. Persons present are the same and nothing has transpired since we last spoke.

Now (b)(6)-4 & (b)(7)(C)-4, you have been describing the overall security situation in June as being relatively benign and there was a discussion about adopting the

British method of basically going to soft caps. Is that correct?

A. That is correct.

Q. To confirm [Tape 1, side A abruptly ended mid-question].

[Tape 1, side B picks up mid-question.]

Q. ---- CJTF role?

A. That decision was taken at the Central Command level.

Q. Central Command level. Okay now did CFLCC agree with that because you had talked about some staff interaction about missions and your Op plan and joint manning and stuff like that? I just wanted to see how that kind of process worked. In other words was it top down driven or was there significant dialogue and --

A. I do not know about commander-to-commander dialogue. I know that colonel-to-colonel -- the colonels with whom I spoke on the Central Command staff within the J-5 and the J-3, I made it know that my recommendation was -- and that which I delivered to my boss was that we're leaving too soon and as tough as it was going to be we needed to stay. Now, again, I do not know what took place commander-to-commander but I do know that subsequently we were directed to begin the handover process that would culminate on the 15th of June.

Q. Was that your assessment -- your assessment, was that based on kind of what you had seen in terms of when you were writing the op plan, Elipse II, I believe you called it and you saw this, I think the way you described it was a bunch of responsibilities and tasks?

A. It was Eclipse.

Q. Oh Eclipse.

A. Lunar Eclipse.

Q. Okay.

(b)(6)-4 & (b)(7)(C)-4 [redacted]

A. Eclipse II and yes, because as we war gamed potential enemy courses of action, one of them was an insurgency. Now although none of us, I hasten to add, thought that was very likely, it was one of the potential outcomes and we felt that given the depth in our headquarters and it's understanding was that was -- that was the recommended command and control course of action [unintelligible word, counter 735] given the complexity of what we knew is also -- I mean at the same time we were also engaged in discussions with the establishment of the multi-national division that would relieve First Marine Expeditionary Force and so there was handover within handover within handover and that was adding to a level of complexity that I thought was just you know, based on my own personal judgment was just a little too much to bear for the Corps Headquarters even reinforced with folks that were coming out of ours. Again, I don't know of anything about the commander-to-commander decisions and I'm sure there were absolutely great reasons for why the decision was taken to do the handover.

COL (b)(6)-2 & (b)(7)(C)-2 Do you know the reasons?

A. No I do not but I'm sure there must have been some because we did it.

Q. At the colonel-to-colonel level or at the staff level to staff level-to staff level what -- did you ever gain any impressions from what CENTCOM felt about your feelings or your staff's feelings or at the planning level feelings regarding this?

A. I can't tell you across the entire CENTCOM. I can tell you that the conversations I had with two guys in particular, we were all in violent agreement because we just didn't know what was going to happen as far as the enemy was concerned.

Q. Now it ended up being an assumption, I guess, that the security environment would be relatively benign. Was that, in fact, an assumption that was a conscious assumption that was placed as part of a transition of phase 4?

A. No, we would never have made that assumption.

Q. Okay. Sliding off this topic just a little bit what you mentioned earlier that the standing joint task-force headquarters and there was a nucleus group that had come out of JFCOM and under General Hawkins, is that correct?

A. That's correct.

Q. Did they come into theater?

A. Yes they did. They lived with us at Camp Doha, Kuwait.

Q. Were they under CFLCC or were they under CENTCOM?

A. The decision was taken between Central Command and the senior general officers in CFLCC that this group would be under the operational control of CFLCC.

Q. Okay in that regard was the -- was the CJTF supposed to be built around this standing joint force headquarters?

A. Yes, that was our understanding when the guys in JTF-IV -- that was roman numeral IV by the way, arrived in theater that these would be the nucleus of the headquarter that followed them.

Q. And when did they arrive in theater?

A. Late January.

Q. Now what happened with that whole thing?

A. [Pause.]

Q. What I mean is did, in fact, this corps group, this nucleus, actually become the nucleus for this CJTF?

A. No, not in so many words.

Q. Okay.

A. The team was made up of -- it was joint team. The Naval, Marine, and Air Force officers were on 90-day TDY orders. At the end of their TDY they left theater. The Army officers that made up the team were on 179-day TDY

(b)(6)-4 & (b)(7)(C)-4

orders so they stayed for 179 days, some of them longer. Some of them were -- as I recall, the Army G-1 and G-3 - issued a -- there was a message that came out of the Army staff, again as I recall, I remember seeing it but I don't remember the dates or anything just by fiat extending every Army officer who was on 179-day TDY to one year. Those Army officers that were a part of JTF 4, some of them came to our staff, the CFLCC staff. I had one of those guys actually come and work for me. The others -- and then subsequently left and worked for V Corps. Others went to work for ORHA and Office of Reconstruction and Humanitarian Assistance run by the [unintelligible words, counter 768].

Q. Okay then what did that -- okay, this is a two-part question with a three part answer I guess; I don't know. If the Navy guys were only there for 90 days, you barely cross the LD and they're going home so how are they going to become part of a standing joint force headquarters, first part of the question; then second part of the question is, what did they do while they were there in terms of developing the formulating of the joint manning document and everything else that would have embodied the creation of a full-up JTF headquarters?

A. Answer to the first one is I don't know. I don't -- I have no idea who took the decision to do that and to formulate that team. All I know is they came out of Joint Forces Command and some were on the joint manning document. There were a number of joint manning documents floating around at the time all of which were in various degrees of being filled. The second part -- the answer to the second part was General Hawkins is a pretty dominant personality and he had a Marine chief of staff, a colonel marine chief of staff whose name I can't remember, who was also a rather dominant personality and those guys worked like indentured servants and they really were on the -- they were producing a very good document. They were producing a plan for JTF, whatever it was going to be for Iraq-7, that would -- and I can't remember what they called it. I want to say it was Aurora but I don't recall precisely but they named it. They had -- they were actually writing a plan for campaign plan Phase IV(b), recovery and for (c), transition because the first level of effort was they participated in a war gaming that we were doing as the CFLCC C-5 that tried to articulate what the end state conditions for our participation in phase 4 would be, which was Phase IV(a), stabilization because our end state conditions became the

(b)(6)-4 & (b)(7)(C)-4
[redacted]

starting conditions for their planning and so our war gamed end state conditions became assumptions for them upon which they began their planning for Phase IV(b) and (c), part of the CENTCOM campaign plans. They were doing an awful lot of work. Now were some guys and gals working harder than others? Sure, but no one was -- none of those folks were slacking.

Q. No, no.

A. As far as the duration of their stay, my understanding and again this could be flawed, was they were on orders in accord with service policies. I cannot confirm that. I remember someone telling me that.

Q. And what happened to that organization once the CJTF stood up then?

A. They were formally disestablished prior to the stand-up of the JTF and their officers were incorporated into CFLCC and ORHA. After -- upon handover of the JTF role from the CFLCC to V Corps, those Army officers who were still in theater, who had been extended for a year rolled over and augmented the V Corps staff.

Q. One last question on this particular -- was their a viable construct for a standing joint force headquarters? In other words, an organization on paper that would have transitioned from CFLCC to CJTF? In other words, with, you know, a three-star general/two-star general, a chief of staff, various organizations? In other words what I'm describing is the honeycomb of organization that would actually be this headquarters or was it something that was just going to evolve or mutate out of either CFLCC's organization or out of, in this case, V Corps?

A. I will tell you I never saw a proposed table or organization save those that we at CFLCC developed. Was there another existing headquarters? At one point in time at the beginning of our planning effort and I would put that at the beginning of phase IV planning for me was June and July of '02. We assumed there would be a headquarters that would follow on. As it became more and more clear to us that we were going to hand over the phase IV mission to ourselves as JTF-7, that realization kind of sank in and we began to change the Outlook within our headquarters that it was going to be us and we began the work of looking at who

(b)(6)-4 & (b)(7)(C)-4

was our -- and I'm going to use an acronym now and I can't remember what it stands for but it was WWIAS. I'm sorry I can't remember what it stands for but essentially that was the process by which the Army used to augment our headquarters, our headquarters in 3d U.S. Army that made up CFLCC as well as the joint manning document that gave us our Marines and our Air Force guys and we began to relook that and how we can sustain it until we learned that we were then going to hand over the JTF-7 mission to V U.S. Corps on the 15th of June and then the focus of effort became how can we transition those billets over to V Corps to augment their staff to make then a joint task force staff. As the multi-national divisions developed, how would those multi-national divisions embed staff officers into the joint task force staff and how would they establish liaison officers, which were also pretty much staff augmentation from the joint task force.

Q. Okay, I have a quote that I would like to get your comment on here. "They went into phase IV with the perspective that the Corps would augment the JTF and it would function effectively. The CTF-7 structure on 14 June would have been adequate for stability and support operations and for drawing down the force." Is that a fair assessment?

A. Who said that?

Q. I don't know.

COL (b)(6)-2 & (b)(7)(C)-2 It's in a report ----

Q. It's in a report and I don't particularly have the quote. It was from a high-level official.

A. Could you read that one more time please?

Q. Sure. "They went into phase IV with the perspective that the Corps would augment the JTF and it would function effectively. The CTF-7 structure on 14 June would have been adequate for stability and support operations and for drawing down the force." It might have been the Schlesinger Report.

A. No I've got the Schlesinger Report open and I haven't found that.

Q. Yeah, it may -- it's somewhere up in those Netherlands but that's the quote.

A. Well, one of the considerations and possible outcomes that we were dealing with was the potential that the enemy would be quickly defeated and that the thrust of then -- this was under the guise of planning for success -- the enemy would be defeated, there would be no insurgency and therefore we would want to get out of Iraq as swiftly as possible consistent with handing over the Iraqi forces [unintelligible due to background noise] environment. So I can see where someone would say that the headquarters was structured to do that because we had to bear in mind all the potential outcomes. Was that the predominant slot? Yeah because everybody wanted to go home but there were still forces arriving as we were dealing with the relief in place of the 3d Division by the 1st Armored Division and we were anticipating that possibly 1st Cavalry would come and of course 1st CAV was taken off the force flow to come as a part of Operation Iraqi Freedom II. Of course we didn't know that Operation Iraqi Freedom II was going to happen at that time.

Q. Okay.

A. So my comments are, yeah, I mean, I can see where someone would say that. The Corps was not going to augment the JTF. The Corps was going to be the JTF and it, itself would be augmented by other people but okay I can accept that quotation as a valid point of view.

Q. Okay. Is it correct to say that when the CJTF-7 became operational or stood up on or about the 14th of June, it assumed CFLCC's missions, roles and responsibilities?

A. That is an incorrect statement because JTF-7 stood up earlier than the 14th of June. CFLCC became JTF 7 and I was trying to find the exact date of that in my notes and I can't but it was well before -- I want to say it was sometime in May because when General McKiernan left Camp Doha to go to Baghdad, we already knew we were JTF-7; we at the CFLCC because I remember he joked about putting yet another hat on.

(b)(6)-4 & (b)(7)(C)-4 [redacted]

COL (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 I have a note here that we talked about earlier that said 3rd or 4th of June, V Corps became CJTF-7.

A. Then I misspoke because that's not correct. V Corps became CJTF-7 on the 15th because that was the handover.

COL (b)(6)-2 & (b)(7)(C)-2 Fifteenth of June?

A. Yes.

COL (b)(6)-2 & (b)(7)(C)-2 Okay.

Q. Okay when V Corps assumed ----

A. Excuse me, I believe what I said was -- of course the transcript will say, that about the 3rd or 4th we found out that V Corps would become JTF-7, I think.

Q. Yeah because I think you also said something about you had about -- there was about a 3-week period there and then ----

A. Right.

COL (b)(6)-2 & (b)(7)(C)-2 Excuse me, I also have another note right before that says, 'CFLCC became CJTF-7 late April/early May.'

A. Yeah and like I said, I can't remember the precise date. I'd have to go back and do a detailed look at my notes but it was sometime in there; maybe not April but May for sure.

Q. so when V Corps took over CJTF-7 or it became CJTF-7 ----

A. Roger.

Q. They basically took all of CFLCC's missions?

A. No. They took the JTF-7 mission. JTF-7 was responsible for conducting operations in Iraq. The CFLCC missions remained with 3d Army.

Q. Okay and those CFLCC missions were more or less the AOR missions?

A. That is correct as well as receiving both incoming and outgoing forces, you know, the incoming reception, staging, onward movement and integration of forces entering country [unintelligible word, counter 901] the rest of 1st Armored Division and the follow-on combat support, combat service support units that were still coming in during the request for forces procedures as well as the retrograde of 3d Infantry Division and other units [unintelligible word due to background noise, counter 903] come back in, turn back in all the Army preposition sets of equipment and materials that we got from APS 3 and 5 and then ship them and the 3d Division home. That was the CFLCC responsibility.

Q. Okay so V Corps, AKA CJTF-7, was basically the ITO guy?

A. I don't know what ITO stands for.

Q. Iraqi Theater of Operations.

A. Roger.

Q. Okay and you -- and CFLCC was in the Kuwait/Saudi Arabia/Qatar ----

A. Right, rest of the theater.

Q. Rest of the theater. We're heading around this whole area because I'm covering a bunch of different specific areas in here.

A. Okay.

Q. I have a quote from the Jones Report which talked about phase IV operations were being envisioned as SASO and as direct support to the CPA. When did the CPA and it's -- and the role of direct support come into significance?

A. Who is Jones?

Q. General Jones.

A. Oh, Marine General Jones?

(b)(6)-4 & (b)(7)(C)-4 [redacted]

Q. No, Army General Jones. This is part of the 15-6 that was done, which was part of the Kern Report.

A. Okay. I'm unfamiliar with that report. However, by and large we did look -- when I was writing Eclipse II, which was the plan that we also handed over the V Corps who subsequently modified it into a campaign plan of their own design, we did in fact envision the participation of land forces as stability and support operations. That was the best doctrinal terms that we could use that would communicate to everyone -- I didn't want to use 'doctrine de jour'. I wanted to use something that was out there at the time. Stability and support operations best fit [unintelligible words, counter 928] and support the CPA was discussed in the terms of when do we go from military to civil primacy. These discussions began when General [unintelligible name] group, ORHA, was the civilian [unintelligible word, counter 933] and again this was before we made decisive -- you know, before we made contact we envisioned that there would be a point in time where the requirements for U.S. provided security forces and other forces; the engineers, civil affairs would decrease and there would be a corresponding increase in the number of civilian [unintelligible word counter 938] Iraqi, NGO, PBO and U.S. government/coalition government agencies that would come in and start taking over the running of various ministries. The maintenance of somewhat of a stable environment and at that point in time, if we never quite nailed down when that would be in terms of linear time, that would be the cross-over point where the civilian would take over and the military would work for the civilian as opposed to when General Garner arrived he was placed under the operational control -- he and his agency -- of the CFLCC by the regional combatant commander. So that was the genesis of that discussion. That was all cast aside, I would offer, when ORHA was disestablished and it was announced that Ambassador Bremmer was going to be coming into as the Coalition Provisional Authority because his title, Coalition Provisional Authority, is certainly saying to me that he was going to be the guy in charge.

Q. Okay.

A. At that point in time we, at CJTF-7, coordinated directly with Ambassador Bremmer and took directions from him and I know V Corps did the same because they split

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4

their headquarters and, in essence, split their TAC -- the Corps TAC, co-located in the palace with CPA and the Corps Mains set up at Baghdad International Airport.

Q. How did CFLCC conduct battle handover of this whole thing to V Corps?

A. We had staff-to-staff talks for the 2 weeks prior to 15 June. As you recall or maybe you don't, on the 14th of June General Wallace changed command of V Corps to Lieutenant General Sanchez and on the 15th of June we sat around a huge conference table in a palace at Baghdad International Airport or in the neighborhood of Baghdad International Airport and had the entire CFLCC staff and the entire V Corps staff and we had a rather traditional series of presentations from the situation through logistics. The folks at Leavenworth would have loved it because we tried to follow doctrine as well as we could. That was a formal staff-to-staff, commander-to-commander handover and I participate in it and I briefed General Sanchez that day along with the rest of the senior staff principles of CFLCC.

COL (b)(6)-2 & (b)(7)(C)-2 What was the staff number of CFLCC when you all did that compared to the staff number of CJTF-7?

A. In terms of the number of people?

COL (b)(6)-2 & (b)(7)(C)-2 Correct.

A. I don't remember but ----

COL (b)(6)-2 & (b)(7)(C)-2 Swag it ----

A. During the war I would offer -- I heard guys say that we were roughly the same size in terms of personnel. I don't know that for a fact. I honestly don't know. I know that JTF-7 -- well V Corps folks were kind of disappointed in the lack of fill of the joint manning document gives their staff the joint flavor but I don't remember numbers.

COL (b)(6)-2 & (b)(7)(C)-2 But on the Army side of the house what I understand you to say is that CFLCC and V Corps were about the same size.

A. To the best of my recollection in terms of raw numbers, we were about -- numerically we were about the same strength.

Q. Okay moving on just a little bit ----

A. Grade wise I would offer we were probably a little heavier.

Q. A little heavier?

A. Yeah well considering all of our staff principles except me were flag officers, which is as you know, not the case on a Corps staff.

Q. Was V Corps happy to be assuming this role?

A. Hell no.

Q. They were -- were they expecting to go home?

A. There was that hope. Again, I would say as time went on and once we started the -- you know once we had D-day, H-hour and the CFLCC/C-5, my folks, and G-3 plans, V Corps folks started looking more and more -- as well as G-5, 1st MEF -- started looking at the complexity of phase IV, we started looking around about, 'Gee, who the heck could be JTF,' at the time Iraq. We didn't know the number was going to be 7. What were the options? CFLCC stays, 1st MEF, V Corps, some other corps to be named or some other organization to be named that would be a hybrid of Central Command, CFLCC, V Corps and 1st MEF. None of those were past any stretch of feasible, suitable, acceptable -- though we all came to the realization that it sure looked like V Corps was going suck it up.

Q. How much augmentation came down from CENTCOM?

A. To JTF-7?

Q. Yes.

A. None while we, 3d Army, had the missions. I don't know ----

Q. I guess because ----

A. ---- how many came from Central Command to augment V Corps.

Q. Because the key word is CJ, Joint, and what you're talking about is Army headquarters and Army Corps.

A. Yes and I don't know. I only knew personally one guy who went to Baghdad to augment V Corps Headquarters and he was an Army officer serving as the J-5 at Central Command.

Q. Okay. I may come back to that in a little bit when I -- depending on how far down the road we get here talking about the doctrinal discussions regarding the establishment of standing joint headquarters and stuff like that.

A. Okay.

Q. Let me get down the road here a little bit. A subsequent CENTCOM FRAGO established and transferred all of CFLCC tasks to CJTF Iraq that was followed by another FRAGO which changed the name to CJTF-7. I think we've been kind of talking about that.

A. Yep.

Q. Initially CFLCC was designated as the commander of forces Iraq and would perform as military governor. CJTF-7, upon establishment, assumed those responsibilities. Now during phase IV (a), CJTF-7 was designated the main effort and supported command. Commander ARCENT was designated as the joint rear area command in Kuwait and Saudi. Is that pretty much the way it went?

A. To the best of my recollection, what you're describing is what existed on 15 June and after that date.

Q. Okay.

A. Prior to that date that was as General McKiernan said; it was just another hat that CFLCC was wearing because we did retain all the other joint and Army doctrinal responsibilities of the Army Service Component Command, 3rd Army, CFLCC so yeah. But after the 15th when V Corps was JTF-7, 3d Army then resumed -- it just lost one had but retained all the other responsibilities.

(b)(6)-4 & (b)(7)(C)-4 [redacted]

Q. Okay I have another quote here that I'd like for you to comment on from the Jones Report. "In accordance with the CENTCOM Oplan, CFLCC would have had to provide operational logistic support to Army forces from Kuwait. No attempt was made by CJTF-7 to coordinate a change in this command relationship." Why did CFLCC retain OPCON of units, such as 800th MP Brigade, after the 15th of June?

A. I have no idea.

Q. Okay.

A. My understanding was that we would perform those tasks that were related to combat service support. Why would we retain command of 800th MPs? I have no idea. The Kuwaitis would not let us establish a PW holding area in their country. So as I recall the 800th operated inside Kuwait until we crossed into Iraq and then as we set up holding areas, they moved forward into those areas.

Q. Yeah the relationships for a lot of the units were either OPCON or TACON.

A. Check.

Q. And 800th was one of those units and they were TACON -- they became TACON to CJTF-7 upon 15 June let's say but that still implied that all the administrative, logistic, and all those other types of support tails stretched back to the 377th Theater Support Command and -- which was under your -- let's say you're under CFLCC control.

A. That's true.

Q. Is that good or is that something that ----

A. The discussions that we had as best I recall was that TACON, under the doctrinal definition of TACON, that gave JTF-7 all the authority it needed to specify directive directed tactical tasks that the brigade would perform and that by retaining operational control, that's ultimately at CFLCC, that would relieve JTF-7 of the responsibility for providing CSS.

Q. Okay.

(b)(6)-4 & (b)(7)(C)-4 [redacted]

A. It made sense at the time because JTF-7's zone of control was the country of Iraq and CFLCC had responsibility for Kuwait and the only port that we were using, CPORT, was in Kuwait. So it made sense at the time to do it that way. We had a similar arrangement if we'd have conducted operations out of Turkey between Central Command, European Command and CFLCC that there would be units that were providing combat service support in the north under -- and the European Command would retain operational control and as those units would come into Iraq, and again this was all war gaming conjecture because obviously we didn't operate out of Turkey into Northern Iraq, but those units when they came into a zone of CFLCC would come under the TACON of CFLCC or a CFLCC designated force [unintelligible word, counter 088] so that would have been the 4th Division. So we applied this similar construct to relieve JTF-7 of the burden of providing combat service support and TACON in our estimation give the Commander, JTF-7 all the authority he needed to direct tactical tasks.

Q. Okay we'll come back to that in a little bit and talk about that a little bit later down the road here. Just to set me straight as we move into this next phase of questions and discussion here, if I were to draw a task organizational chart depicting theater C-2 during phase III it would be from CENTCOM to CFLCC to V Corps?

A. Correct.

Q. Now what about after 15 June when V Corps became CJTF-7; could you describe it how that chart would look?

A. Yeah it went from CENTCOM to JTF-7.

Q. Where would CFLCC be?

A. On the same command line.

Q. On the same command line as?

A. Because we did not have a command and control relationship with the JTF-7.

Q. You had a coordinating ----

(b)(6)-4 & (b)(7)(C)-4

A. We were coequals. We were coordinating.

Q. You were co-equals?

A. [Affirmative response.]

Q. And so you were ----

A. Just like the relationship with JTF 180 in Afghanistan.

Q. Okay.

A. Under Central Command's command and control on the 15th of June it went from Central Command to CFACC, CFLCC, CFMECC, CFSOC, JTF-7, JTF-180, JTF-HOA.

Q. Okay and like you said, CFLCC and the Air Force are all off on the side?

A. Check.

Q. Okay. Now moving on here; in June of 2003 when CTF ORD was established a vast increase in responsibilities began. CJTF-7 grew to 180,000 and was charged with phase IV task and direct support to the CPA. What planning assumptions did CENTCOM provide for the direct support to the CPA to either you or through you or during the standup of V Corps as the CJTF?

A. I do not recall any specific planning assumptions that I took from Central Command. I can tell what the assumptions that we made were because I've got them right in front of me.

Q. Okay.

A. They were: policy guidance and end state will evolve over time; Asymmetric strength to CFLCC forces will exist in phase IV; non-DOD agencies, e.g., Department of Energy, Justice and State will contribute to Iraq recovery operation; some essential infrastructure (rail, airports, power generation, bridges) will be damaged due to combat operations; national organization, non-governmental organizations will request CFLCC support with at least force protection CSS in humanitarian assistance, supply distribution; coalition forces will participate in phase

IV; the TPFDL, Time Phased Force Deployment List Flow (modified), will continue until completion and finally - International Organization and non-governmental organizations already operating in Iraq but some will cease activities by A-day. Now that -- that final one was because we began our planning for phase IV before D-day. The only assumption that didn't hold true was the second one, the TPFDL flow (modified) will continue until completion; well you could say it was true because it was stopped by a decision of the Secretary of Defense. So those forces that were approved to flow did and those that weren't approved did not. But those were the assumptions that we used.

Q. Okay.

A. And the CFLCC/C-5 developed those. They were briefed to the Central Command. I did not personally brief them to the [unknown acronym sounds like 'sink']. I assume he saw them because our plan was approved -- Eclipse II was approved by Central Command.

Q. Was there any specific guidance or directive from CENTCOM?

A. Only that which existed until 3V and phase IV. that had been published in January '03.

Q. Okay. Now what I was getting to in addition to that with regards to CPA or anything like that.

A. There might have been fragmentary orders that were published when ORHA went away and CPA but I did not see those. Here again, this is just -- we also -- me and CFLCC also did a plans to ops handover of Eclipse II in late -- actually around mid-May in advance of the realization that we were completely in phase IV operations and our headquarters split and went forward. About that time until we were told to get transitioned from CFLCC, as JTF-7, to V Corps' JTF-7, the C-5; my guys, were working on the theater engagement strategy, were working on retrograde of forces and how we would reconstitute the Army preposition [unintelligible word, counter 180] of equipment in theater and other things like that because the plan was no longer a plan it was an operation. It was an operation's order and it was being executed so we'd done that handover.

(b)(6)-4 & (b)(7)(C)-4 [redacted]

Q. Okay. What happened to the CFLCC staff, then, after the 15th of June? Did you begin to redeploy what was left in theater, those type of things?

A. Yes. We looked at -- you have to remember that a number of folks from the CFLCC staff had been deployed since about the 14th of September '01.

Q. Okay.

A. And so we looked at who'd been deployed the longest and started to send those folks home because we assessed that, you know, the staff that we had in theater could continue to do what we were charged with doing at that time which was, in essence, running the RSOI and Forces Command and the retrograde of forces leaving as well as doing the other theater engagement and strategy refinement tasks.

Q. Now at this time was there also a remnant, if you will, back at Fort McPherson?

A. There was a very small rear detachment of, as what you'd imagine guys who were too close to retirement to deploy, folks that had been injured or taken ill; things like that ----

Q. Now was part of the reason to redeploy some of these guys was to restart or reinvigorate the McPherson staff to go back to the more, what I'll call, traditional role of theater support?

A. The first and primary purpose was to get people rested.

Q. Okay.

A. Because as I said, some of the folks that worked for me between September '01 and July of '03 had been home -- none of them had been home for a continuous period of longer than 25 days.

Q. Okay.

A. So they were just flat burned out so that's what we were doing. Now after a period of rest, the thought was

(b)(6)-4 & (b)(7)(C)-4 [redacted]

that we would try -- we would have to achieve some sort of a steady state so that there would be operations being overseen and planned for in Atlanta and portions of the staff ----

Q. Could you hold on a second? We're going to start to run out of tape. We're going to have to switch to a second tape.

A. Okay.

Q. We'll drop off tape at 1602 and come back on shortly.

[Off tape briefly.]

Q. Okay we're back on tape. It's 1603, persons present are the same. Please continue.

A. As I was describing, at the time of right after transition of the CFLCC, 3d Army [unintelligible due to background noise, counter 233] retrograde back to Atlanta to rest and [unintelligible word, counter 234] the long term plan was to, after [unintelligible word] was to sustain a presence both forward in theater and in Atlanta to afford the commander two functioning CPs. The primary duty of the forward headquarters would be day-to-day and near-term operations, as we called the C-35 future operations. Those were a couple of weeks or maybe a month out and the long-term planning, which takes place in Atlanta it's the headquarters of Central Command and also come back to Tampa [unintelligible word, counter 420] from the J-5; at least that was the plan.

Q. Okay.

A. And that's pretty much what 3d Army stuck to although there were times when they would surge and send everyone forward.

Q. Was there a time or a mark on the wall when the three-star flag would redeploy back to McPherson or would it basically stay planted or how did that work?

A. The three-star flag was never going to -- was going to stay mobile. General McKiernan's chosen method of operation was to shift back and forth so he never

(b)(6)-2 & (b)(7)(C)-2 [redacted]

officially left theater and came home. He would just -- he did leave theater and came home for, you know, 2 or 3 weeks then he would go back forward for 2 or 3 weeks and he would continue like that.

Q. Okay. I'm going to run through a series of quotes here. I'll ask you just to comment on all of them kind of we're somewhat starting to wrap up a little bit with some follow-on questions here. This -- I quote "The level of authorities and responsibilities of a command of this magnitude, i.e., the CJTF-7, is normally vested in a four-star level Army Service Component Command under a COCOM."

A. I disagree.

Q. Okay.

A. A JTF can be any level of command by our doctrine. It doesn't necessarily have to be a four-star. As a matter of fact I would offer that it's only on rare occasions that it happens to be a four-star. Look at Korea; that was a result of the end of the war and in that case the Army component in Pacific Command is a three-star. In the Central Command AOR, the JTF was a three-star because that was the headquarters that we had. It can be a four but I wouldn't say that's routine.

Q. Okay. Second quote, "We note however, in terms of its responsibilities CJTF-7 was never fully resourced to meet its -- to meet the size and complexity of its mission. The joint staff, CJTF-7, and CENTCOM took too long to finalize the JMD," and what they're pointing to is that the JMD was never finalized until December of 2003.

A. I would offer that it wasn't filled until about that time. It was finalized ----

Q. Okay.

A. ---- when I left Baghdad on the 15th of June, I don't remember now but I know what the JMD said. We all -- we and let me be more precise; officers on the V Corps staff, officers on the 3d Army CFLCC staff, we all knew what was supposed to be there. We also knew that all those guys and gals couldn't come out of 3d Army headquarters and

(b)(6)-4 & (b)(7)(C)-4 [redacted]

rotate into V Corps headquarters so hence the joint manning document.

Q. Was it really a joint manning document or was it an Army manning document?

A. It was an Army manning document.

Q. Okay.

A. The argument that the Navy component and the Air component made was that JTF-7 didn't need to have a Naval or an Air component because their headquarters; the Air Force and Navy respectively, could do those tasks for JTF-7 and JTF-7 wouldn't have to worry about it. JTF-7 was primarily a land operation; therefore it was primarily going to be Army. Even our Marine brothers were dragging their feet on filling billets that we thought were going to be Marine.

Q. So then the responsibility for vetting the document and putting it all together fell to CFLCC and fell to the Army guys to make it happen?

A. Yeah.

Q. Okay.

COL (b)(6)-2 & (b)(7)(C)-2 What did CENTCOM say about all of this?

A. CENTCOM -- there wasn't one voice talking for CENTCOM on this. The understanding became that, 'Look there's a joint manning document and JFCOM, you're supposed to be the joint force provider, you've got to fill it.'

Q. And so JFCOM did nothing?

A. To what I saw that is an accurate statement. The only folks that I saw reinforce V U.S. Corps were folks that came out of the CFLCC staff and those primarily had come from the original gang from JTF-4. We did have other officers and NCOs and soldiers who were on our staff who stayed with V Corps on a volunteer basis to fill joint manning document billets.

Q. Okay somewhat of a hypothetical; given the fact that serving on a joint staff or a joint organization such as a combatant commander, you have a variety of officers from different services that interplay with each other and it doesn't matter about what the level of support is coming from where but the staff expertise that they bring to the fight, whether it be a CB from the Navy, ALO from the Air Force, an Air Force engineer for base security and stuff like that; why do you feel or can you provide a perspective as to why CENTCOM didn't force this -- was not more forceful in trying to get the proper joint staff on board for this organization?

A. I don't know that they weren't more forceful, I really don't.

Q. Okay.

A. They could have been out there beating the bushes and beating up everybody on the joint staff of Washington. I just -- I don't know.

Q. Did CFLCC try to beat up Army or go to CENTCOM with their concerns or did they --

A. Yes ----

Q. Okay.

A. ---- both Central Command and to the Army staff.

Q. And what blow back did you all receive from that?

A. On individual levels was, 'Guy, don't you realize that the Army is real busy and we have other headquarters we've got to fill,' and official responses were, 'We've tasked out to units and we're in the process of adjudicating the requirements and all that's going to take time but we will fill you.'

Q. Okay, got it.

A. But see the Army staff, quite rightly, is sticking only to billets that were tagged Army on the joint manning document and I don't blame the guys and gals on the Army staff for doing that.

(b)(6)-4 & (b)(7)(C)-4

Q. I understand that. And then the blow back coming from the joint side of the house was basically, you know, we're working the reclamas and all those other type of things?

A. Yeap, as well as what I said, you know, that CFACC and CFMC, for example, you know maybe in error were, 'We can do for JTF-7 what JTF-7 needs to be done from our own headquarters [unintelligible words due to background noise, counter 310] -- naval officers on their staff.

Q. Okay. Another quote; "When there was a realization that CJTF-7 was not going to work as established, evidence indicated that Lieutenant General Sanchez and General Abizaid began working in the summer of '03 to get a four-star headquarters into theater." Were you aware of this and if so, did you or the command participate in meetings or decisions regarding this initiative?

A. No I was not. I left theater on the 5th of July and as soon as I got back I started to move on reassignment orders.

Q. Okay now immediately prior to your departure, was there an impression that there was an insurgency and it was growing and if so, if that was an impression that was starting to appear to the command, did this cause for a change in CFLCC operations or support to the CJTF?

A. No, there was not an appreciation that it was an insurgency. What we felt was that we had not completed the defeat of regime element and that given the ease of the availability and quantity of weapons; explosives and ammunition throughout the country,that they were former regime loyalists who were trying to disrupt the establishment of a new [unintelligible words, counter 325] as long as they could. What we did do is really start paying attention to the training of convoys because we were sending, you know, sustainment convoys out of Kuwait into Iraq every day and that became a focus of effort.

Q. Okay. Was there any commentary about CENTCOM -- from CENTCOM about indications -- warnings and indications or anything like that?

(b)(6)-4 & (b)(7)(C)-4 [redacted]

A. Not that I recall. We were all concerned about the rise and at that time it was still kind of slow -- you know the rise in the number of incidents.

Q. Okay. Were you aware of any specific requests or status reports that suggested the TACON units were deficient in personnel and equipment prior to your departure?

A. I was unaware of any request. What I was aware of was the fact that a number of those RC units came over at less than C-1 because the -- our Army could not find enough units rated C-1 under the unit status report system to send over so we were starting to take units at C-2 and C-3.

Q. Okay.

A. Because we had to because that was the reality of the units.

Q. Now was there any -- going back then once these units, I'll say 'showed up' to go back and try to get them more?

A. I don't know.

Q. Okay and then a follow on question to that would be, was there a reluctance ----

A. It would be different if a guy came over at 80 percent strength personnel, it would serve no purpose to bring him up to 100 percent strength and equipment if he couldn't man the equipment.

Q. No, correct ---

A. ---- the stress plan was make sure that if he was 80 percent, he was 80 percent across the board so that everybody had a truck, everybody had a weapon, everybody had radio; things like that.

Q. For your opinion, was there a reluctance to add forces to the theater given previous announcement that the current strength of the theater was sufficient? I'm talking about the political statements being made at that time?

A. In all honesty, guys, I don't want to go into that. That's outside of my realm.

Q. Okay.

A. I'm not going to comment on political stuff.

Q. Okay. You do have an opinion though obviously.

A. Not one that I care to share under oath.

Q. Okay. Let me move to two quotes from the Schlesinger Report, if I could.

A. Okay.

Q. First quote is, "Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a handoff of detention operations to the Iraqis. If commanders and staff at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003 as difficulties with the plan were readily apparent at that time." Can you provide any comment or perspective on that?

A. I'm trying to find -- what page is ----

Q. That's page 47.

A. Okay. I scrolled past it. I need just a second. I want to read it. [Pause] I disagree with the first line. I do not believe it was clear in July 2003 that there was a major insurgency growing.

Q. Okay.

A. At the time -- when I -- I mean I left on the 5th of July. There was an increase that was -- it was a significant -- yeah because there had been none for a while. Now was there an increase in incidents across the country? Yes. An insurgency implies there was a controlling headquarters or a controlling hand somewhere.

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(b)(6)-4 & (b)(7)(C)-4 [redacted]

At that time, and I'd like to think that I'm a pretty savvy and educated officer, it was not apparent to me that there was a major insurgency growing. There was in increase in incidents that appeared on one level of analysis as isolated because they were distributed all around the country. The relatively benign environment projected for Iraq was not materializing. Sure, okay. Adjust the plan to what? It was still going to be a stability operation. Stability operations involve elements of offense and defense as well as stability operations in terms of reconstruction and support to NCO's.

Q. You're talking about the phases of peacemaking and peace keeping and their inner-correlation?

A. Absolutely.

Q. What about this; "If commanders and staffs at the operational level had been more adaptive," was the CJTF an adaptive organization the way it was put together?

A. Now we're talking about V Corps ----

Q. Yes.

A. And the V Corps Commander and honestly, I don't know. When I completed the handover of my tasks [unintelligible words, counter 381] I'm not waffling here but I was shifted to other tasks. The major task I had from about the 16th or 17th of June, because in all candor when I got back to Camp Doha, I slept for about 20 hours, was to develop -- first was to develop a briefing for the Kuwaiti General Staff or Joint Staff on what happened and what our projections for the future were in terms of theater engagement strategy and to engage with the [unintelligible word, counter 386] J-5 on theater engagement strategy in a post-Saddam region or era as well as the continued monitoring of the arrivals multinational division forces.

Q. Do you think that the V Corps had sufficient tools to be adaptive?

A. Sure they did.

Q. Okay.

(b)(6)-4 & (b)(7)(C)-4 [redacted]

A. Because they had a lot of SAMS grads and SAW grads up there, not that you need those kind of people to be adaptive but those folks were staffed with war college grads, staff college grads and all that. They were ----

Q. Well what about enough tools given the fact that you've got the tremendous split between CPA -- you know they're operating at the -- really the -- beyond the operational level and they're also operating at the squad level. Do you think they had enough tools?

A. No because the joint manning document wasn't filled.

Q. Okay.

A. Part of the JMD was an increase in the grade of their staff officers.

Q. Okay.

A. So that's another reason why CFLCC staff had all those flag officers. So no.

Q. Now the last probably quote also on page 47. I'll just start and see if you pick up on it. "Responsible leaders who could have set in motion" -- have you identified that?

A. Got it.

Q. "the development of a more effective alternative course of action extend up the chain-of-command and staff to include and it lists the chain-of-command and it talks about the director of -- you know, the commanding general for the CJTF-7, the commander for CFLCC, the commander of CENTCOM, the chairman of JCS. It implies a vertical chain-of-command. Is that correct description of the chain-of-command?

A. No because JTF-7 did not work for CFLCC.

Q. Okay.

A. Did we have an interest in what happened? Of course we did. They are our friends. More than that we had a responsibility to continue to sustain the JTF but it

(b)(6)-4 & (b)(7)(C)-4 [redacted]

was not -- first of all it would have been damned bad forum for the commanding general, CFLCC to go down and say, 'Hey Commanding General, JTF-7, here's the way to do it better.' Were we having informal talks staff-to-staff? You bet your life we were because, you know, I was talking to my counterparts on the V Corps Staff, now JTF-7, because I was the guy who'd spent the war [unintelligible word, counter 416] working with Central Command.

Q. Sure.

A. And so I was -- yeah, I was talking to him. I was talking to him every day until the day I left.

Q. What about the last sentence there that -- I think paragraph -- "In most cases these were errors of omission but they were errors that should not go unnoted."

A. I agree and that's part of the after action review process.

Q. Okay.

A. What did we do? What didn't we do? How can we do it better next time? I absolutely agree with that but I would also offer that, you know, the only infallible person who ever lived was crucified so ----

Q. Got it. Now why didn't CFLCC or ARCENT jump in and help CJTF-7 with greater staff augmentation when they realized it was going to be an Army mission and the insurgency is beginning to grow in August/September timeframe?

A. I don't know. I wasn't there.

Q. Okay you had already moved on?

A. I was gone by the middle of July.

Q. Okay.

COL (b)(6)-2 & (b)(7)(C)-2 Did you talk to anybody that might have some insight?

A. Actually no, I did not. The guys were either in between Atlanta or Camp Doha or Camp Arifjan. My successor was onboard and I didn't want to appear to be the nosey former guy interfering with the guy who relieved me so ----

Q. Sure.

A. ---- and he didn't' call me so I mean I -- you know, it's just that courtesy thing.

COL (b)(6)-2 & (b)(7)(C)-2 Hey (b)(6)-2 & (b)(7)(C)-2 I want to go back just a little bit while you were still downrange. Did you guys are JTF-7 ever request any additional forces?

A. We never requested more forces than that were already apportioned.

Q. Okay. Was there any request that came up from V Corps or the CJTF after it stood up right before your departure requesting for more forces?

A. Not to my knowledge, no.

Q. Okay.

COL (b)(6)-2 & (b)(7)(C)-2 Do you know if CJTF-7 ever requested any after they stood up?

A. We didn't when 3d Army was JTF-7. I know that for a fact because that was -- part of my job was force flow. As far as I know until I left, V Corps did not request anymore forces. Frankly guys there were none to be had once OSD stopped the force flow and said 1st CAV wasn't coming that was it.

COL (b)(6)-2 & (b)(7)(C)-2 Was that kind of like the directive from Washington that you're not going to get any so don't ask for any?

A. No the direction was we're going to stop the force flow because the assessment was, and this was agreed upon by Central Command, that it wasn't necessary to bring the 1st Cavalry Division into the fight because there wasn't a fight.

Q. Got it. So to wrap up this 2-hour conversation, do you have any closing thoughts or comments given everything that we've talked about today?

A. No closing comments but a request that I would like to be provided with a copy of the transcript of our conversation once you produce it.

Q. The way we work that -- we'll talk about this off tape. The way we work that is you'd either have to come and see it or we can get you the procedure to FOIA it.

A. Okay.

Q. And we can talk about that once we're off tape and become a little less formal here. Who else should we talk to given everything that we've talked about today? Do you have any guys in particular who could, kind of also, put some perspective on all this stuff we've talked about?

A. The one officer on the CFLCC staff, he may have just retired, who was most involved in both the development of and filling of the joint manning document was Colonel [redacted] and I'll spell is last name, [redacted] [redacted]

Q. Okay. And what was his job?

A. He was the Deputy Chief of Staff of CFLCC. He worked for then, Major General Blackmon, United States Marine Corps.

Q. Okay.

A. Really that's about it. [redacted] he lived that day-to-day. As a matter of fact he was the guy who briefed the status of the JMD on the 15th of June.

Q. Okay.

COL [redacted] Anything else?

A. No.

COL [redacted] Okay [redacted] I'm going to go ahead and start the read-out.

A. Very good.

COL [redacted] We are required to protect the confidentiality of IG investigations and the rights, privacy and reputations of all people involved in them. We ask people not to discuss or reveal matters under investigation. Accordingly, we ask that you not discuss this matter with anyone except an attorney, if you choose to consult one, without permission of the investigating officers.

Your testimony is made part of an official Inspector General record. Earlier I advised that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of these records to include your testimony but not your personal identifying information such as your name, phone number, social security number, and things of that sort under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

A. I am happy to have my testimony released save my personal identifying information.

Q. So then your answer would be yes, is that correct?

A. That is correct.

COL (b)(6)-2 & (b)(7)(C)-2 Do you have any questions?

A. Well since I just named a guy you might want to talk to, can I give him a heads up that you want to talk to him?

Q. No.

A. Okay.

Q. But you can tell us off tape where he's located and how we can get a hold of him.

A. Okay.

COL (b)(6)-2 & (b)(7)(C)-2 Okay I have it as 1634 and the tape recorded portion of this interview is concluded. -

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[The foregoing testimony of **COLONEL** (b)(6)-2 & (b)(7)(C)-2 (b)(6)-4 & (b)(7)(C)-4 was recorded by means of magnetic tape, and transcribed and certified by (b)(6)-2 & (b)(7)(C)-2 Closed Microphone Reporter, United States Army Inspector General Agency, The Pentagon, Washington, DC 23010.]

EXHIBIT

(b)(6)-4 & (b)(7)(C)-4

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Testimony of **GENERAL PAUL J. KERN**
Taken at Fort Belvoir, Virginia,
Between the hours of 1030 and 1245,
24 November, 2004, by (b)(6)-2 & (b)(7)(C)-2 and
(b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency,
Washington, D.C.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, the time is 1030. This tape-recorded interview is being conducted on 24 November, 2004, at Fort Belvoir, Virginia.

[U] Persons present are the witness General Kern and the Inquiring officers (b)(6)-2 & (b)(7)(C)-2 and (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials in CJTF-7.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may be directed by proper authority.

[U] Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] GENERAL KERN: Yes, I do.

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, Sir, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] Do you have any questions before we begin?

[U] GENERAL KERN: No, I don't.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [General Paul J. Kern was sworn and testified under oath as follows:]

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you may lower your hand. For the record please your name?

[U] A. Paul J. Kern. K-E-R-N.

[U] Q. Your rank and component?

[U] A. General, United States Army.

[U] Q. Your position and organization?

[U] A. Formerly the Commanding General of the United States Army Material Command.

[U] Q. All right, Sir, your Social Security Number and this is voluntary.

[U] A. (b)(6)-4 & (b)(7)(C)-4

[U] Q. And an address either home or office, keeping in mind that the return address on any correspondence from this office will indicate that it is from DAIG.

(b)(6)-4 & (b)(7)(C)-4

[U] (b)(6)-2 & (b)(7)(C)-2 All right. Thank you, Sir. All right, we will go ahead and get into the questions. Sir, did you want to start or shall I just go ahead and start.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, we have some prepared questions, , but we'd like to offer you the opportunity, if you'd care to, to make any comments before we begin.

[U] GENERAL KERN: I think from--you know I've spent 41 years wearing a uniform. Almost 42. This is perhaps one of the most challenging pieces of it from the perspective of what we found that Soldiers did at Abu Ghraib and then trying to determine a cause and accountability for it. And so this is both a disturbing event from my perspective of and career in the Army, but I think in which one we did a very through investigation in trying to link all the pieces and clearly there is many organizations and many people involved that have to be brought into account. So I would suggest that this task that you have right now of trying to fix the final accountability with the Senior General Officers who are involved in it, is one that is both important to the United States Army and also one which is going to have different interpretations I think based upon where people were sitting and watching and seeing how the events unfolded.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] (b)(6)-2 & (b)(7)(C)-2 Thank you, Sir.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. All right, Sir, I am going to just jump right in then to some of the findings that were made in the report and just ask you some clarifying questions about some of them and just give you an opportunity to comment on them.

[U] A. Okay.

[U] Q. The first one, Sir, "The Commander and Deputy Commander of CJTF-7 failed to provide proper staff oversight of detention and interrogation operations." And that was a finding in both your report as well as the Schlesinger Report. Sir, we have reviewed a lot of these reports and we are aware of some of the mitigating circumstances, that were present at the time that CJTF-7 was--was conducting these operations. And we are familiar with the resourcing issues, some of the personnel problems, the operating environment, and how there really never was a transition to Phase IV.

[U] A. Right.

[U] Q. And security and civility operations. So given that, can you tell us specifically in what way General Sanchez failed to provide proper oversight?

[U] A. First I think as we all believe both in our hearts and by orders that Commanders are responsible for everything that it done within their command.

[U] Q. Yes, Sir.

[U] A. So it emanates from his overall responsibility within the theater of Operations for which he was assigned to command. Second, the responsibility of the Commander is more than just what explicitly is written. It is also implicitly what you need to be able to ask the right questions of

Staffs to get the responses that you need. And third, and this truly isn't a lack of the--of responsibility it's the--it does pertain more to the conditions. But the mission that he was given in retrospect, it was the wrong mission and it was never challenged. I was reminded of that in-- when General Abrams, Senior, Creighton Abrams, took over the command of--in Viet Nam, he asked the question what was his mission. He was never given one. So Westmoreland was operating as the Commander of the United States Army-Viet Nam, without a Mission Statement. The first question that Abrams asked when he took over was, "What's my mission?" And it really changed the perspective of it. So that has flavored I guess my thinking in this from what is the Commander's responsibility.

[U] The assumptions that went into Phase IV, that you would be in stability and support and the mission to send people home turned out to be wrong. And in fact he was in an insurgency operation which increased in intensity during that entire peak period and the people that were being sent home needed to stay. Military Police, check points, who were responsible for detention facilities in this particular case and then the Military Intelligence organizations necessary to build the intelligence picture, that was theirs. So that's sort of an overarching statement of the conditions in which he was operating. And then clearly if we had put him through a BCTP type, Battle Command Training Program type exercise I think this would have all come out. The mission and task would have been reviewed in some detail rather than taking a Division Commander, throwing him into a Corps Commander Headquarters, taking away half his staff; and saying you now have a mission as a Combined Joint Task Force Headquarters.

[U] And so the conditions made it extremely difficult to go back and do that kind of a BCTP type analysis. A rigorous task analysis of the missions that would have resulted in answer--asking the questions, should I expect that the number of detainees is going to increase or decrease? Should I have the right--do I have the right command structure? Do I have the right missions assigned to CFLCC and CJTF where we had the 800th Military Police Brigade assigned to one Headquarters and the Military Intelligence Brigade assigned to a second Headquarters with the responsibility delegated to a Deputy. Were those subordinate Brigades?

[U] And that part was not done. Now, while we criticize both General Sanchez and General Wojdakowski on that process, we didn't give them the time or the resources to do it either. And so while we fault them as being the Commander and Deputy Commander, it was much more the environment that we threw

them in. But in the end they're accountable for their command and you cannot take that away.

[U] Q. Yes, Sir. You said earlier in your statement that CJTF-7 was given the wrong mission. What was that wrong mission and who in your view gave it to them? Was it difficult to state it or did it--

[U] A. If you go back and look at General Jones' report and he went back and looked at all the orders and FRAG Orders that were given. It was the basic order that was prepared for Operation Iraqi Freedom which was a phased operation. General Sanchez was given the mission of assuming command of first V Corps. Then within a few days, V Corps being disestablished and reestablished as a Combined Joint Task Force, without a new mission statement and without a new order being given. And so the Phase IV operation of the original mission said that he was to conduct stability and support operations. Support the Coalition Provisional Authority, Ambassador Bremer, and return forces. And that mission statement was not reviewed at that time or asked whether or not it was still current.

[U] Now, implicitly the actions that General Sanchez took it was clear that he understood that he was not in stability and support. That he was in an insurgency and his actions reflected his understanding of that; and his actions to build an intelligence picture so that he knew the appropriate missions to assign to his subordinate commands were in accordance with that. So he behaved as if his mission were stated differently but in fact the mission that he was given was not ever revised.

[U] Q. All right, Sir, can you think of anything specifically that he should have done differently? Either he or General Wojdakowski?

[U] A. I think he should have gone back to originally General Franks and then later General Abizaid and said we ought to restate our mission. And in that staffing function he also should have said, and I think General Abizaid saw this, in the command structure that is created now that he needed to establish a different command structure to conduct the missions both with CFLCC and in support of Ambassador Bremer and the CPA. And what we found is that the mission statement telling him to do both stability and support what became in fact conduct insurgency operations or counterinsurgency operations and the mission to support Ambassador Bremer were unresourced. He did not have adequate resources to conduct both of those missions.

[U] Q. Did General Sanchez----

[U] A. I shouldn't say unresourced. Under resourced.

[U] Q. Yes, Sir, did General Sanchez recognize this and make attempts to fix the shortfalls? In your view did he do that adequately?

[U] A. Yeah, I think he did. I mean he clearly recognized it based on both his statements and the discussions I've had pursuing that with both he and General Abizaid in terms of what they saw happening and then listening to his staff. And the actions he was taking. I don't think he was perhaps adamant enough about really forcing the senior Commanders to restate his mission though and then relook the resourcing of that, with the real mission in front of him as opposed to the assumed mission that in the Phase IV part of the operation.

[U] Q. Yes, Sir. A similar question then for General Wojdakowski. Can you think of what specifically he should have done differently given that he had the responsibility of direct oversight of those two Separate Brigades?

[U] A. And this is very easy to say retrospectively and very hard to do, because I met with him a number of times on other issues during that period. He was overwhelmed with things to do. He should have done, one, the same thing I just suggested as to General Sanchez. As his Deputy he should have got back to General Sanchez and say we need to restate our mission and relook these. These tasks that we've assigned. And I think out of that would have come a new command structure where the MP Brigade and the MI Brigade would have fallen under the same command structure and a single person would have been put in charge of both. In particular when you take it one notch down and--and if you look at where General Wojdakowski was focused we had a staff running Military Intelligence Operations and we had a Commander, MP Brigade, running Detention Operations and they weren't integrated. And that was--that's both a failure of our own doctrine and training I think to bring those pieces together as well as the command relationship that was established there. Not challenging what they had in front of them saying this is not effective.

[U] Q. Sir, you said that they had a staff running intelligence operations whereas they----

[U] A. Well you--if you can find a set of orders that assigns intelligence to a commander at Abu Ghraib I will be amazed. They created a JDIC. That was a staff function. They reported back up through staffs through the intelligence operations. And so the MI Brigade Commander was never assigned a

task or a Battalion subordinate commander of conducting intelligence operations in terms of interrogations. It was assigned to a JDIC which never really grasped the mission. And that was one of our issues with Lieutenant Colonel Jordan, who never acknowledged the fact that he was given the mission. There was no command structure underneath that where you have Company Commanders and First Sergeants overseeing their personnel. And that's really the nature of the way we have done our military intelligence operations almost historically. Where we break them down into Teams and task organize them and they lose that command structure. It was very clear on the Military Police side that you had a MP Brigade which was responsible for detention. It was less clear then on Military Intelligence side who was in charge of interrogations. And it became a staff function rather than a command function. In my view it should have been assigned to a Military Intelligence Battalion Commander.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, let me follow up on that. The answer can be one of two. Who do you believe the JDIC worked for? It sounds like you believe they worked for the CJ-2. Is that correct or did they work for the 205th?

[U] A. Well, I mean we kind of drilled that. They really worked for the Three. Operations are--come under the Three, but it was never clarified that way. Miller was never given that real task of pulling those as an operational consideration to give that mission until they sent General Miller back over there and said you're in charge of detention and interrogation. That was not done.

[U] Q. But at the time--at the time of your investigation, Sir, --

[U] A. It's unclear who was in charge of Military interrogations.

[U] Q. Unclear.

[U] A. Because it was done as a staffing function with information it collected--now they created a JDIC but find an order that says who does the JDIC report to. Where is a Commander involved in that? In that chain of authority. There isn't one. Its reports that are provided through a staffing function.

[U] Q. Sir, if I were to make the statement, the JDIC worked for Colonel Pappas and it was a command function. How would you respond to that?

[U] A. I would--I would have said that that would have been a correct way to do it. I would have rather seen rather than Colonel Pappas that there'd a Lieutenant Colonel Battalion Commander as opposed to a--the JDIC staffing function. And we were creating an organization, the JDIC, which is an emerging doctrinal organization. Not one of which you can go pull out a manual and say here's how you do it. Here's how it's staffed. Here's how it reports. And then we put a Lieutenant Colonel in charge of it who never acknowledged. Who hasn't at least to my knowledge has never acknowledged the fact that he was in charge. The staff, anyone on the staff, we talked to never thought he was. Now--and then Pappas, was given--still had authority and responsibility across the entire Country or Iraq for the Military Intelligence activities. Not specifically for interrogation activities And so I--I never found any order unless you could show me something that said that you know the JDIC reports to the MI Brigade.

[U] Q. Did you have the opportunity to discuss that with Colonel Pappas, Sir?

[U] A. I did not. No.

[U] Q. So you don't have any insight as to what he might have believed as far as his ownership or responsibility?

[U] A. I think he felt ownership for all the intelligence interrogation operations. The JDIC being one of them. But there are no orders specifically that I know of that directly say that. I mean the MI Brigade was assigned a number of missions but they covered the entire operation and then he specifically then was given a second in the FRAG Order that directed him to be in charge of the security. Not interrogation at Abu Ghraib. So you have kind of an overarching order where you would--you would assume that there's an implied mission that all interrogations are to come through him as a tasking. But there's no specific order that says once we created the JDIC that it reports to him.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, the interrogation policy letters that we'll talk about in more detail a little bit later, included language that indicated that the 205th MI Brigade Commander would ensure that the interrogators were trained for those specific techniques. That he was responsible for interrogation plans; that he was responsible for certain levels of approval for certain techniques and insuring that the various controls were in place.

And that's--that's in the policy letter signed by General Sanchez. So----

[U] A. Not early on but later on.

[U] Q. Right. I'm talking about the September letter and the October letter. Which would lead one to assume that the 205th MI Brigade Commander had responsibility for those interrogations.

[U] A. I agree. I think he had responsibility for all the interrogations that were taking place throughout the country not just at Abu Ghraib. I don't think there was any question about that.

[U] Q. Yes, Sir.

[U] A. The problem that I have with chains of authority and command is that the JDIC--there is no chain of command that the JDIC falls under and there is no--the problem--and this is not specific just to this MI Brigade, it's the way we've orchestrated all of our Military Intelligence over a long time. The chain of command disappears. You break them down into teams and these teams--and in this particular case were created out of ad hoc organizations because they just got people with the right MOS from different command structures and put them into this organization. So the part that fails in my test of this is that there's no order that assigns a commander in charge of the JDIC, whether it's a Lieutenant Colonel reporting to that MI Brigade Commander, with Company Commanders responsible for the oversight of how those Soldiers assigned there would behave. In our Military Intelligence organizations historically this has never captured that and we've never really put them under the pressure that they were here to reveal some of these challenges. That's my opinion.

[U] Q. Yes, Sir, where should that order have come from?

[U] A. Well, I think the order should have come out of the CJTF Staff, and that's one of our recommendations that they should have written clear orders on how that chain was to work, and that did happen afterwards. There was a new order written.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you mentioned earlier General Miller, General Tom Miller's----

[U] A. Right.

[U] Q. --responsibility as the operations guy to overwatch the detainee and interrogation functions. Did he have a responsibility in the interrogation function as the C-3 in your mind?

[U] A. None that was evident in my mind. He had a responsibility from an operational standpoint to assign missions and tasks and resource them. And I--and I didn't--you know I don't think that ever got there.

[U] Q. Much of what we've learned, there is quite a clear picture painted in the minds of folks we've talked to about a clear delineation of CJ-2 responsibility for interrogation operations versus the C-3 responsibility for detention operations. And most people seem to paint a pretty clear separation between the two as far as what General Fast's responsibilities were and General Miller's responsibilities were. Do you see those in the same light, Sir, or do you think C-3 should have had a greater role in the integration of the intelligence and interrogation aspect?

[U] A. I agree with you on all the things that we found on how people saw the C-2/C-3 roles. I do believe however that the C-3 should have had a stronger role in bringing those pieces together. Not keeping them as separate staff functions. And it's very clear when you go back and you ask, in our view, my view personally, from all the reports and investigations that the Military Policeman were receiving directions from Military Intelligence Personnel. But neither of them truly understood on either side of their areas of responsibility what their boundaries were. And that was both this lack of an integrated C-2/C-3 approach to interrogation processes. And a doctrinal and training problem that we have the way we train detention operations and intelligence operations.

[U] And one of the things that we found is there is-there had been n annual exercise where they should have come together and it didn't occur. So these units had not worked together; and therefore when you separate them in C-2 and C-3, kind of world one for detention and one interrogation, the boundaries between them were unclear. And so if a MI person-it could be a contractor not just a Soldier-told a detention Military Policeman to do something, it was unclear to them as to who really had the right authorities. And it's a murky area I think that we're all trying to sort our way through in this particular one because it's one that doesn't happen very frequently where you have this large scale kind of an operation under these types conditions.

[U] Q. Well one of the challenges we have obviously is a lot of decisions and a lot of events converge around this whole JDIC situation.

[U] A. Right. Yes.

[U] Q. And that's--obviously that's one of the places where we're trying to get greater clarity.

[U] A. Right.

[U] Q. I think we have a pretty thorough understanding of what people did. And what people believed they should have done, but what we're trying to get some assistance on is what folks should have done.

[U] A. The 'should have' one becomes one of interpretation because there is no doctrinal organization processes to deal with the JDIC, and so we were creating that as we were going. I say 'we' the CJTF was doing that. And I think the abilities that General Fast brought into it when she was asked mid-stream to come in and set this kind of an operation up were all done with the best of intentions and the best capabilities that could be brought to bear in there. Where we came up short is since nobody had an established organization or chains of command is how that the pieces were to fit together. And we further complicate that when you bring in the CIA and other organizations who would intervene in this process periodically who were not in that chain of command either with the ISG piece completely set aside reporting to CENTCOM.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, what responsibility in your view did General Fast have to establish that chain of command or chain of authority at the JDIC?

[U] A. In my view she had a staff function to provide military intelligence, analysis, and advice to the Commander. And the Commander then has to--a staff officer of any rank cannot write an order unless it's delegated to them and it was never delegated to the C-2 that you can sign an order to do that. C-3 normally is the person who is issuing orders. Not the C-2. So she was doing the staff analysis, building the structures, making the recommendations and doing it. And I think as you've reported and found reported that there was a distinct distinction between the two. They never really did come together where the C-3 picked up any staff integration requirements. So, okay, the C-2 says they need X number of people to man the JDIC

and we need another number of people to man the detention operations; and there is some interface between those two where somebody may come out of the JDIC and say put this person into solitary and so there's an automatic establishment there de facto. But there is going to be some interchange between those two functions. And that's the part I think we have not come to grips with is how that should occur.

[U] Q. Yes, Sir.

[U] A. And the only way that you, as a Commander, can fix that is write an order. That says this is who will be--make the decisions and who will be in charge. Is it the Lieutenant Colonel who is running the JDIC or is the Lieutenant Colonel who is running the detention facility; or is it the Colonel who is out there running the MI Brigade? And that's part that from a strict command and orders that I found to be missing in this structure.

[U] Now, I don't know if you have any evidence of anything different but I couldn't find any.

[U] (b)(6)-2 & (b)(7)(C)-2 [redacted] I don't know if I could say I've seen something like that at this point or not.

[U] (b)(6)-2 & (b)(7)(C)-2 [redacted] No.

[U] GENERAL KERN: After the fact there's been stuff done.

[U] (b)(7)(C) [redacted] Right.

BY (b)(6)-2 & (b)(7)(C)-2 [redacted]

[U] Q. Sir, at the time, CJTF-7 was new.

[U] A. Yes.

[U] Q. People were new. They went into what they believed was one situation and obviously encountered something else. Given all the operations that were on-going at the time, the search for WMDs, the search for all the folks in the deck of cards--

[U] A. Right.

[U] Q. The reintegration of Abu Ghraib under the Iraqi National Prison System and the growth of the prison population, should those kind of decisions been apparent at the time, do you think, given the complexity of the situation and

what officials such as General Sanchez and General Wojdakowski knew at the time?

[U] A. That's a difficult question. And if I could just put a footnote on it. I just had, yesterday, spent briefing the Abu Ghraib findings to a group out in the West Coast. And the former Secretary of Defense Bill Perry was there. And he asked me the question. He said, "Did anybody highlight what would happen after the Baath Regime was taken down and the Iraqi Army was defeated in terms of insurgencies and potential for detainees et cetera?" And I said, "Not to my knowledge." I wasn't part of the early staff planning so I don't know what occurred in all of those discussions nor did I find any of that in our investigation. And his comment was, "Going into the Balkans when we sent the 1st Armored Division in we spent an awful lot of time discussing that that was going to be the outcome, insurgencies, detention operations, et cetera." Which raised another set of questions to me did that occur. And I don't know that it did. And I think our focus had been on--and this is an assumption I'm making. That we looked at defeating the Iraqi Army as clearly the primary task at hand when Iraqi Freedom was initiated. And so the CENTCOM focus was on Phases I, II, and III. I think there was an expectation and since I wasn't part of it nor did I see any evidence of it, this is an assumption on my part. That it was going to be much like Desert Storm when Phase III was completed. And that you're going to have a large number of EPWs not detainees. And that you would decide what to do with them and then they would go back into the general population after some agreements were made. And we would have peace, stability, and support. Not an insurgency. And so I have to believe that based the way that order was written that's the way the thinking went and that's the way the discussions were promulgated. Not around the fact that there was a highly--high probably that an insurgency would occur and that there would be a large number of detainees who we would have to deal with after the defeat of the Iraqi Army.

[U] I also gave the Kermit Roosevelt Lectures in England this past spring. And I was challenged by the-this was April before I was given this mission. I was challenged by some of the students there. Their War College is the equivalent National Defense Universities. Why weren't we prepared for the insurgency? Why didn't we know this was going to happen? And in the British planning, documents, they had those assumptions. I don't believe they were in ours. At least I don't--I saw no evidence of that. Both by the orders that were written and by the actions that were taken. And so I had in two cases I've been questioned since then why weren't we more prepared for these types of insurgency operations and detention capabilities, and I have to believe based on what I know, that we did not adequately

assess that part of the situation. And so the organizations that ensued were not adequately structured to take into account what happened.

[U] We didn't--we established the CJTF but we didn't have a Manning Document for a CJTF. The orders that sent Military Police home and not prepare for future detention of larger numbers. We did not go out and prepare for intelligence collection operations to determine the leadership and targets of the insurgency. All of which were things that General Sanchez did. But he did it based on events that were unfolding and implied tasks that he had rather than on orders that were given either originally or subsequently.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir, when you speak of planning for this potential insurgency, can you differentiate between CJTF-7, CFLCC, or CENTCOM responsibility in regard to recognizing that potentiality?

[U] A. The way we established the borders between CFLCC and CJTF-7, which nobody I think was terribly comfortable with retrospectively, where CFLCC was responsible for everything south of the Kuwaiti borders and CJTF-7 everything north, and then you had an MP Brigade that was split between them, suggests that CFLCC was sort of cut out of the operational side of it during that period. They were part of it up till the Phase II, Phase III, and in Phase IV were cut out of it. And so the players then are not CFLCC. They're the CJTF-7, the CPA, and CENTCOM. And I don't know--understate that because I think Ambassador Bremer and the CPA played a large role in direction given to General Sanchez. And the amount of time and resources he spent responding to that. In his Mission Statement, going back to Phase IV Operations, said support CPA.

[U] Now, where you start getting into, now okay let's back off to say we're a CENTCOM's role. Now, CENTCOM then had an integrating responsibility across that, but they also had to deal with the Horn of Africa, they also had to deal with Afghanistan, their Headquarters. But between Qatar and Tampa, not being in the Baghdad area, ended up defaulting many of the assessments and decisions directly back then to General Sanchez and Ambassador Bremer working together. Could have and should have CENTCOM played a stronger role? Yes, I think they should have.

[U] The ISG reported to them, not to Sanchez. And so you had a split there of intelligence activities as you suggested with a focus on WMD and other fifty-two high priority targets. It was a great frustration in talking--and I did not

talk with General Franks, but talking with General Abizaid of the lack of cooperation with the ISG in supporting his operations. They had--they were far better resourced at the proper level with the ISG than they were at Abu Ghraib with the CJTF-7 efforts and so that was a frustration that he displayed or he reflected.

[U] And then you had--so you have in the middle of it, Bremer and Sanchez almost co-equals in terms of it, but by the way we operate, we look at the Ambassador role that Bremer was playing as being the "Senior Country Team Leader." And so there's almost an implied role there of subordinating the CJTF to the CPA. I say 'implied' not 'stated' because it said support. It didn't say you're subordinate. And so CENTCOM therefore should have been the integrating Headquarters to play a stronger role in that. But again, we had a change of command and a change of structure taking place there with General Franks departing and General Abizaid coming in. So that--you had lots of transitions. I mean one of the things you might want to do is, is just stack up the number of transitions and changes that were taking place--

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, we've done that----

[U] A. --through out that whole process. And look when these things--when these events occurred and it's all during this period of transitions of Headquarters and lack of clarity as to who was responsible between CJTF-7, CFLCC, CENTCOM, CTF. And so there's a lot of confusion. Now, and that was one of our conclusions. Who is in charge? Not clear. Particularly the interrogations side of it.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Sir, some have argued that in retrospect, General Sanchez and perhaps General Wojdakowski should have--and I don't really want to say "seen this coming" but should have seen these indications and warnings that surfaced at the CJTF-7 level that indicated there were problems at Abu Ghraib. And the incidents that were cited in your report included the incident at Camp Cropper, the ICRC Reports at Abu Ghraib, the CID Investigations that were going on; specifically at the point of capture types of abuses.

[U] A. Right.

[U] Q. That were happening then. The death of the OGA detainee at Abu Ghraib and so on. How would you characterize that, Sir? Should--should General Sanchez have----

[U] A. Retrospectively there were lots of warnings. That's what we said. Retrospect is wonderful for all us, right?

[U] Q. Right.

[U] A. My view is that the staff did--there's two things that happened to General Sanchez and General Wojdakowski that were unfortunate. Retrospectively. One, they were overwhelmed with things to do, and under resourced to do them. And so they were trying to divide their attention between supporting the reconstruction of Iraq and support of the CPA and the building of the Government, and conducting military operations. And there were not enough--there was not enough time in the day or people to do both. I'm not even, I think today, with finally with two Headquarters there, we're probably structured to do that. But clearly we were not during this period.

[U] Secondly, we should have taken the time to do a thorough mission analysis and do some rehearsals for General Sanchez taking command of the CJTF. That didn't happen. It would have even been worse if we hadn't saw that in order for General Sanchez to take over the CJTF he had to be relieved by Harold Dempsey. General Dempsey was working for me at the time in Saudi Arabia. And had just been attacked. He just had thirty people killed in the terrorist attacks that took place against his contractor support for MELCO Corporation.

[U] Q. Which corporation, Sir?

[U] A. In Saudi Arabia. This is OPM-SANG that's where General Dempsey was assigned. He was conducting a NEO.

[U] Q. Right.

[U] A. I called up Franks and said, "Hey, time out." He can't pull Dempsey out of here now to go change command with Sanchez. He's got a military operation he's conducting. And Franks said, "Yeah. Okay. I agree." So that was delayed. But we were in a--we trying to push the change of command of getting Rick Sanchez into command of the CJTF without giving him all the preparation that we give every other Corps Commander. And this more, far more complex, than a Corps Command because we were also bringing in the Coalition Forces under the Polish Multi-National Division. So as the CJTF Commander he had to reorganize a Staff; build that command structure; and he did it without the benefit of doing the rehearsals and mission analysis that we would do prior to that type of operation. And perhaps that's a process problem that we have to do in-stride changes, and to really keep all that in focus on how much you're asking one person to do. One staff. Who had just fought a war and half of them had gone home. Wojdakowski happened to be one of the few that remained. He had a Chief of Staff of the CJTF who I never met because he spent his whole time with Ambassador Bremer-a Marine. And you had people

who were coming into organizations like a CJTF without a Manning Document, a JDIC without a Manning Document. And the pace of operations during the entire period is increasing.

[U] The tempo just keeps building and building and building. So instead of detainees going away, detainees are increasing. Attacks are increasing. Who's causing the attacks? Unknown. Have to build the intelligence picture. So while we're critical of the Commander and the Deputy Commander and the staff, they were overwhelmed with things to do. I mean absolutely. I mean I saw that every time I visited. Every time I visited Rick Sanchez before the investigation he was just more and more tired. Okay? And he was just burning the candle at both ends.

[U] Q. Yes, Sir.

[U] A. And he in retrospect--and you look at the documents and he wasn't--it's not that he wasn't paying attention to Abu Ghraib. He was telling people treat prisoners, detainees, humanely. Abide by the Geneva Conventions. Improve the security at Abu Ghraib. So he personally was doing things and seeing things. But what failed to happen is; now the simple fact that the ICRC reports had been put on his desk, I think by an IG independent of the rest of the staffs who might feel some responsibility for not properly resourcing for doing it and say you've got a problem. Well and we need to do something. Never happened. Not until after we had the young Specialist report that there were abuses taking place.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And of course that wasn't their procedure at the time, the ICRC Reports were being handled at lower levels.

[U] A. Right. And I just think that's flat wrong.

[U] Q. And I believe that General Sanchez changed that process after this?

[U] A. After. Right. He did. And you know we ought to view--and you know I view IGs, my IR organizations, all of our independent review we have as a Commander's benefit. A plus not as a minus. And we should be using organizations like that and also you have another independent organization the Red Cross. We don't always agree with the Red Cross. I mean sometimes they make crazy recommendations that we ought to be feeding people you know filet mignon and living in air conditioning et cetera when our Soldiers are living in the dirt and eating MREs. That's a little bit of an overstatement but sometimes their recommendations are pretty wild. But they ought to be viewed as by the Commander as

an independent group looking at how we are perceived by the world. And that didn't happen. Not until as you suggested after. And so I think that's one of the real shortcomings is that the staff held this stuff as a staff function. Of well that's probably not really going on. That's not true.

BY (b)(6)-2 & (b)(7)(C)-2

[u] Q. Two things we learned there, Sir, I'm interested to hear your comment on. One was as (b)(6)-2 & (b)(7)(C)-2 mentioned that was--that was the ICRC process at that time.

[u] A. Yeah.

[u] Q. But that was designed to be given to the lowest level commander responsible, and the staff people that assisted in making those replies were doing that were Assistants. That procedure has since been changed.

[u] A. Yeah. Right.

[u] Q. Secondly some interesting comments we heard were that, some of the folks who read that report simply did not find it believable. Some of the stuff they read, they just felt was so outlandish that it could not have possibly been true because we asked some of those questions.

[u] A. Yeah.

[u] Q. You know did you see it? Who did you talk to? And--and those were some of the responses we heard. And I wondered if you had heard anything similar to that?

[u] A. Exactly the same. Exactly the same thing. Yeah, the process caused the reports to get staffed. People were unbelievers. And nobody went down to check it. Now could this possibly be happening? And the other assessments that I've got is they said if you believe that independent--number one, we use the Red Cross to help our Soldiers. And we have people who are captured then one of the first things we ask is for the Red Cross to go see them and report back to us. So why wouldn't we want to have that same visibility on the other side? And so it was--the process was--you know, and it's easy to go back in retrospect. Well that was just not good. It did not help General Sanchez. It did not help the US. Whether the reports are outlandish or not, we ought to say well this is an independent body which the rest of the world believes that we ought to go see for ourselves what's going on at the Command level not the staff folk. And so I--that is one of the I think the real places where we undermine

General Sanchez' ability to take the right action not giving him that report and say, "God, look at this."

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, whose responsibility would it have been to change that process so that reports did come to General Sanchez?

[U] A. All of our staff's processes are generally under the supervision of the Chief of Staff.

[U] Q. Yes, Sir.

[U] A. Where they run the staff functions with change processes like that, but in this particular case, as I said, the Chief of Staff was supporting Ambassador Bremer so you end up then with Wojdakowski almost becoming a de facto Deputy and Chief of Staff for the Military Operations. And so you could say that the Chief of Staff should have done that, but the Chief of Staff was assigned something else to do. And so it defaults itself back to the Deputy.

[U] Q. And did you note any evidence where General Wojdakowski was involved at all in reviewing Red Cross Reports?

[U] A. I did not see where he ever got the Red Cross Reports, no.

[U] Q. Yes, Sir.

[U] A. As far as we could determine is the most senior person that ever saw the Red Cross Report before all the abuses became apparent was General Karpinski.

[U] Q. Did she have a duty to notify General Sanchez in your view?

[U] A. She should have. Absolutely. And she had the responsibility for running the detention operations. That was clear. Her Commander, the Lieutenant Colonel, who was relieved, understood and all the Colonels who were in the Military Police, not just the Colonels but all the Military Police, understood that they were responsible for the care, feeding, welfare of the detainees. And when that report came to her, she should have, in my view, taken it directly to Sanchez, Commander to Commander and say, hey, we have a problem.

[U] Q. All right, Sir. Sir, changing tacks a little bit here. One of the findings in the report was "Leaders failed

to take steps to effectively manage pressure placed upon JDIC personnel. Leaders within the MI Community commented upon the intense pressure they felt from higher Headquarters for timelier actionable intelligence. And these leaders stated that this pressure adversely affected their decision making." From our discussions with some other witnesses, the prevailing opinion is those leaders had failed to effectively manage this pressure were pretty much at the 205th MI Brigade level on down. Do you share that view or--

[U] A. Yes. And it has two parts to go with it I mean because there--as I said there was no chain of command there in the MI Brigade. So normally you would expect a Battalion Commander to protect his Company Commanders, and his Company Commanders to protect their Platoon Leaders; and the First Sergeants. Et cetera in the same chain of command. But that's not the way the MI Brigade is organized. You know, they--and I said in one of the earlier discussions we had they never assigned a mission of interrogations to a Battalion Commander and said you're responsible for all interrogations. And so the Brigade Commander who had responsibility for the whole country then became the only one there who had that mission. And that became just a mission far greater than any one person could handle. So the, , you know I just think the way we were structured there failed us.

[U] Q. Sir, whose responsibility should it have been to place a Battalion Commander in charge of the JIDIC?

[U] A. Pappas.

[U] Q. Yes, Sir. Okay. Sir, let's talk a little bit about the TACON relationship between the 800th MP Brigade and CJTF-7. That's generated a lot of discussion amongst folks on whether or not that was a proper relationship and whether it was dysfunctional and did that dysfunction somehow contribute directly or indirectly to the abuses. Would you like to comment on that?

[U] A. I think a lot of the discussion is smoke. I mean if--whether you're TACON, OPCON, or attached or whatever, your command relationship is with a higher, if things aren't going right Commanders need to take it to the next level of their command for action regardless of the relationship. And so, you know, we have this all the time. When you--when it's habitual and you're use to it. Where you have FSB Commanders that are in support of, direct support, but not attached to Brigade Commander. And they take mission statements every single day from a Brigade Commander. If it really gets out of hand, they go back up to the DISCOM Commander. The same thing is true with our Air

Defense Battalions or MI Battalions. We have all these people broken out and the command relationship are TACON or some other, OPCON or attached but not very infrequently attached directly.

[U] In every case my experience has always been if things aren't going right the Commanders go back to their Senior Commander who can implement a change and say, fix it. That's a command responsibility that we all have. And so this thing about TACONs and OERs and all that to me is while from a direct authority and perhaps a legal standpoint correct, from a Command responsibility standpoint I don't believe is pertinent. I just--that's the way I've operated as a Commander through my career. Is hey, if I get some Battalion Commander, for which I have an element working for me, who may have no command relationship, but he happens to be in my area and it's not right, I'll pay attention when he comes in. And says, hey this is not right.

[U] Q. In your view would General Wojdakowski and General Sanchez have responded to General Karpinski if she came to them for help with resourcing even though technically her chain for support actually went back to the 377th?

[U] A. Yes. I think. And clearly----

[U] Q. They argued that they did.

[U] A. And there's a couple of--there is a couple of cases there where Sanchez would say, she should have been standing on my desk saying, "Hey, you dummy, you know we've got some problems going on down here and you need to do something." And that's--I don't think that was very comfortable for her to do that. You know, and so you could fall back, well I really belong to CFLCC. She wasn't getting orders from CFLCC. That the detention facilities weren't in CFLCC's area of responsibility. Nothing that was relevant was in the CFLCC area of responsibility. It was in the CJTF. And so she really didn't, in my view, have a choice but to go to Sanchez and say, "Look you've given me these missions. You have not resourced me to do these missions, and so I've got to change something or you're going to have to move...." She also took no opportunity to move people. She could have moved some of the people who were at the detention facilities up north or down in Bucca to Abu Ghraib.

[U] Q. Why didn't she do that, Sir?

[U] A. I just--that's a wonderful question. It's a failure I believe on her part to say okay, if you're going to go to the Commander, and say, all right, Sanchez, you've given me a mission. It's a mission which I can't accomplish. Here's what

I've done. I've taken every resource that I own and I've given--I've reallocated them so that I have given Abu Ghraib absolutely the most resources of any place I can. The only place left is the Camp Cropper of the ISG and I can't touch them because they've been directed there by CENTCOM. I need your help. We cannot conduct this mission. He couldn't, I mean he couldn't have ignored that, if she did that. But first you have to do your part say okay what are the resources I have at hand? How can I best reallocate my resources? And then how do I then want when I'm out what do I do next? Only one choice. She could have taken McKiernan with her. Said, okay, Boss, you and I need to go talk to Sanchez. I mean there's lots of ways you could do that. But you can't just sit there and not do anything.

[U] Q. Is that what it appears she did, Sir?

[U] A. In my view.

[U] Q. Did you come across any evidence, Sir, where she went back to the 377th? Her immediate higher Headquarters and asked for help, asked for resources?

[U] A. I couldn't find any. But the 377th is another story. Now I didn't investigate that.

[U] Q. Right.

[U] A. But, no, I dealt with them all the time in my role as the AMC Commander in terms of--that's where all my people were attached.

[U] Q. Right.

[U] A. And they were overwhelmed by their mission of just trying to provide the logistics support into the theater and that was just overwhelming for them.

[U] Q. In your view did they 'fail', and that might be a harsh word, to provide their doctrinally required support of the 800th MP Brigade in terms of logistics and personnel and administrative support?

[U] A. I did not look at that. So--but my judgment probably is yes, they didn't provide it. But I don't know that they were ever asked either. I saw no evidence that Karpinski went back to the 377th, either to the Commander or the Deputy, whoever was there at the time and said, hey, you know give me some truck drivers to go secure this prison. I don't have enough people. I saw no evidence of that, but I didn't investigate that

part of it. So I'm just giving you that as my perception from my dealings with the 377th.

[U] Q. So, Sir, the report said that this TACON relationship created a dysfunctional relationship for proper oversight and effective detention operations. Can you pinpoint for us where it became dysfunctional? Because you're already--you've kind of clearly laid out that----

[U] A. It was dysfunctional.

[U] Q. Right. But it--it probably shouldn't have been given the normal command responsibilities that----

[U] A. Right.

[U] Q. --Commanders should take.

[U] A. Right. I mean where it fell down is again it goes back to the assumptions of what Phase IV was going to be. And this whole piece kind of started snowballing on people by the time it got to the end of the summer and into the fall when the majority of the abuses took place. And so if your assumption was that we're going to be in a--it is Desert Storm II, and when it's over, it's over. And then you start sending people home. And a new Commander shows up, Karpinski, then everything looks like okay, now this is going to be a piece of cake. And each day it starts growing on you. It gets worse. And then by the time it gets to the point by late summer or early fall, August-September timeframe, where the numbers start increasing, the attacks start increasing, you have all these changes taking place at all different levels throughout the organizations. I don't think that General Karpinski had the perspective to even ask about TACON versus attached versus OPCON. She went and did her tour of the theater. Talked to Wojdakowski, understood what the mission was and never went back to challenge it, not until after the fact when people started pointing fingers at her. Then she said, well this relationship was all screwed up.

[U] So I don't--I'm not sure that she really--and we didn't--I didn't ask her, and I don't remember General Fay's many hours and pages of interrogation of her after the fact that he went back and asked her, did you ever ask for that relationship to be changed. I just don't think that happened. So when you say it's the wrong relationship but you never ask for somebody to change it, again it's the same as the resourcing problem. If you're given a mission and you take all your resources and do the best you possibly can and are still short, then you need to go back. So if it was the relationship or whether it was the resources, in either case she either needed to

go back to McKiernan, Wojdakowski, or Sanchez or all three and say this is broken. Fix it.

[U] Q. So in your view was either----

[U] A. And I just don't think she had the wherewithal to understand that.

[U] Q. Yes, Sir, and that sort of leads to my next question, in your view, did General Sanchez or General Wojdakowski, did any of their actions contribute to the dysfunctionality, if that's even a word, or--it sounds like the brunt of that rested with General Karpinski. Her failure to understand what a TACON relationship meant, her failure to have the wherewithal to address the problems?

[U] A. In my view, the brunt of it did. On the other side, we--what we said--I think it was in General Jones' report was that General Wojdakowski having more experience than she did, being senior, should have changed either the relationship or just gone directly to the tasking through CFLCC or some other way, to fix the problems that were occurring. In my view, General Wojdakowski had so many other things that he was being asked to do, it was just one of the many tasks. And since he never got reported through him the gravity of what was going on, he never saw really why it was something I needed to put on the top of the list and go fix.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Sir, do you have questions along the same line before we talk about policy letters?

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. I do have a question related to --Sir, you brought up some comments about General Sanchez being moved into a position of Corps Commander and then CJTF-7; didn't have the traditional training and familiarization we give our Corps Commanders as part of that process. And the numerous transitions that went on during that period between leaders. I do want to ask you with respect to General Wojdakowski and Colonel Pappas. We've heard similar comments that General Karpinski was a new commander. Colonel Pappas was a new commander.

[U] A. A new commander, right.

[U] Q. Given this big mission not only in Iraq but at this particular facility. In General Wojdakowski's position, I think at the time he was just the DCG of the Corps. He had about nine separate Brigades----

[U] A. Right.

[U] Q. --reporting to him. And I think some people tell us as many as about eighteen under CJTF-7.

[U] A. Right.

[U] Q. Some of the people we've talked to believe that given the situation where General Wojdakowski understands he has two new, Brigade Commanders, one who needs guidance. The other who would be more receptive of it and is seeking it. Both are new to Brigades. Both are new to this combat situation. Both are in this difficult situation at this prison. One with detention. One with interrogation. And with regard to General Wojdakowski's responsibilities as the direct supervisor and Commander of those organizations, did he do enough to recognize he had these two new commanders in this particular situation they were in to provide proper oversight?

[U] A. I mean retrospectively I would say, no, he didn't do enough. But I also don't know if he had enough time to do enough. I don't believe he did. With 18 Brigades, up to 18 Brigades, depending upon when and where you count them. He had somewhat of an overwhelming responsibility. And I can throw in LOGCAP issues, and I could throw in CPA issues, and I can throw in things that are not command but are delegated to him. He was acting both as the DCG and the de facto Chief of Staff within that organization. And I don't know what the other 16 Commanders were throwing at him. That were coming at him from all the different perspectives. The Polish Multi-National Division. What new dimensions that brought into it. You know so we asked him to do an awful lot. Far more I believe then was achievable by one person in a 24-hour day. So should he have done more? To answer that question is blatantly yes. Could he have done more? That's a different question. I know his personality. I don't know Karpinski's personality. But I'm going to guess that a Two Star six foot three male General who had just been through a war and a One Star Female, Brigadier, who just showed up are going to be a little bit different in personalities in how they behave and react.

[U] No, so I know if you want to get Wojdakowski's attention you know you had better cuss at him a few time, stomp on his foot, and stare him right in the eye and say, "Do it." I don't think--you know, Karpinski wasn't ready to do that. You know that's an Infantry Commander who is put in that mission and has just gotten six thousand things to do, and everyday the priorities on them are changing. Whether it Bremer. Whether it's the Poles. Whether it's logistics. Whether it's

operations. Or whether it's detention operations. And so he was trying to balance all those things. And that is, you know it was an almost an inhuman task to try to do all that.

[U] Q. And again the reason I asked we looked--we keep coming back to this Brigade level problem at the prison. And we're not trying to reinvestigate Abu Ghraib. We're trying to get a much broader look at what happened across Iraq and across CJTF-7. But when you get back reconstructing this whole thing and you can find a number of reasons why this occurred now with the 205th and the interrogation problems; and we looked to leadership and failures in leadership. That's why we get to General Wojdakowski. Because he was directly tasked with supervising those Brigades.

[U] A. Right.

[U] Q. Understanding what he was resourced to do. Understanding what he was charged to do, the question comes, did he fail in anyway in his responsibilities regarding, the supervision of those Brigades?

[U] A. In my view the answer is it's a matter of degree. He had, I don't know how many tasks he had on his plate. I was only investigating one Brigade. One aspect of it. So when you add it all up, it's a different question than when you just look at did he fail in the supervision of that Brigade. Those two Brigades.

[U] And--and in my view the answer to that is in the end, yes, he did. Otherwise these things would have been fixed. That's what people are paid to do. But when you put on top of that, the 16 other Brigades that he was asked to supervise and the twenty other missions that he was trying to accomplish, then the question is if I put the same lens on everyone of those other ones, I probably would have found other failures too. We put the lens on these two Brigades. Because that's where the abuses took place. He may have prevented ten other things from happening under those other Brigades and missions because his energy was going towards those. And failed to do it over there. So I believe that the failure is the one of his being adequately resourced to accomplish all the missions that he had, and having the staffs not providing him the right--and the Commanders not providing him the right feedback that says we need help. This is not going right.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, was there anything that General Wojdakowski could have done to get help? To help him to handle

this myriad of tasks that he now had? Was there something that General Sanchez should have done?

[U] A. Well, , you know, I--

[U] Q. I mean was the fact that----

[U] A. I'm second guessing Wojdakowski right now. It's easy to look back and say you know he should have gone back and done a lot of the things that we talked about in terms of reassessing the mission; reassessing whether we had the right resources to do it; and going back and asking CENTCOM, to help him with that mission. He could have, as you also suggested, perhaps gone down then to CFLCC and the 377th and said, hey, we need battalion support up here to keep the operations at Abu Ghraib. You know we need to relieve the MPs at some of the duties that we could assign to somebody else and let them focus on this. We could do the same thing with Military Intelligence. But it's very easy to sit here in judgment retrospectively not looking at how the other priorities were stacked up on his desk. On--the failure is that, you know, he never got that ICRC Report. And he never got the other indicators. Maybe he did some of the CID investigations that were going on. But the whole overwhelming number of missions that were being thrown at that organization where today we have two Headquarters.

[U] Now and we have, if resourced it a 100%, they're far better resourced than they were back in the time that this was all going on. Everybody else had gone home too.

[U] Q. Right.

[U] A. Yeah, think about what Wojdakowski said, "Hey, (b)(6)-2 & (b)(7)(C)-2 went home. Here I'm still here."

[U] Q. Yes, Sir.

[U] A. You know most of the--the one, two, three's had all gone home. He's still there. So it was he and McKiernan are kind of the guys left and they split their functions between the borders that they established so that their--the friction that was kind of where these things kind crossed back and forth was not adding to the ability to get it all done either.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. All right. Sir, I'm going to go ahead and move on to the interrogation policy.

[U] (b)(6)-2 & (b)(7)(C)-2: Sir, I think we're on your calendar until about noon.

[U] GENERAL KERN: I can stay as long as you want.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Thank you.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, the finding in the report stated that, "interrogation technique memos did not adequately set forth the limits on interrogation techniques. Misinterpretation of CJTF-7 policy memos led to some of the abuses at Abu Ghraib, but did not contribute to the violent or sexual abuses." And then later on it states, "Policy memoranda promulgated by the Commander of CJTF-7 led indirectly to some of the non-violent non-sexual abuses." What I want to focus on, Sir, is the part about the memos did not adequately set forth the limits on interrogation techniques. I've read the letters several times. And they are long and pretty involved. And to someone who is not a MI person, it seems like that a lot of limitations and controls are included in those letters. And that's just my view. What is your view, Sir? I mean in what way did those letters fail to adequately set forth limits? Can you think of any specifics?

[U] A. Yeah, very simply. They should have said abide by the Geneva Convention above all other things period. When all else fails go back to the Geneva Conventions.

[U] Q. In the first letter it actually does address the Geneva Conventions specifically on a couple of the techniques. You know where it warns that some other nations view this technique may approach violating the Geneva Conventions, so it would have to be used with caution. Those same cautions were omitted from the second letter.

[U] A. Part of the problem is that there were so many. Here's my basic thesis. You're an interrogator.

[U] Q. Okay.

[U] A. Okay. You're a twenty-year old female. You're going to interrogate some 40-year old grizzly old Iraqi. What rules do you use? Well I went through MI School and they taught me all these rules. I went through a lot of training. But those were about Prisoners of War not about detainees. Now this guy who goes up here is not wearing a uniform. So how do I treat him? What's the rules? Are they the same or are they different? Pretty simply it, you know, it should have been for you the twenty-year old they're the same. The thing we taught you. Yeah. Don't deviate. Okay? But what happened was there are these letters that, whether it came out of Secretary of Defense's Office, out of Guantánamo, out of Afghanistan; they're sitting in all of these computers down there. They're all reading all of these different things and saying, well I wonder if this applies or--so while they're doing these different letters, which were change, the official letters, and being drafted, they were conducting interrogations. With no specific guidance other than all these drafts of things that were going. And then some of these same Soldiers had operated in Afghanistan. Some of them. A couple had actually been in both Guantánamo and Afghanistan. And so you've got these young kids who are under pressure. That other point that we went back on. To get answers. Who have these multiple sets of guidance and by the time it finally comes out, it's so long and they've already read all these drafts all along; and it's just very murky to them.

[U] And so you've got a young kid who writes up an interrogation report that says I want to do something that's in violation of the Geneva Convention. And it's approved. Now do they know any better? No. Because they didn't--they had no clear guidance. You know after looking at all of these drafts; after looking at all these discussions; after operating in two or three different theaters to how they were really supposed to behave. When the simple statement, the simpler things are the better in life particularly when you're under pressure, is abide by the Geneva Conventions and you will do fine.

[U] That--I mean you've read through them all. Does that strike you as just being self-evident that I should just follow the Geneva Convention, what I was taught in school? It didn't to me. What it added up to me was lots of confusion. The other part that added up to me on it is our interrogators are too low a grade. And so we're asking pretty junior people, Specialist, Sergeants, the most senior person is a Warrant Officer and then a Major in the staffing process whose sort of, his records kind of disappeared, from most of what we looked for. These people are making judgments that are at a national strategic level. That's unfair. You know it should be very simple and direct for a young Sergeant who's going to conduct an interrogation that this is how you do it. And we don't teach you one thing for a hundred and some hours at Fort Huachuca and then you send you into a theater and say well we were just kidding. I mean that's just, I don't know. An expectation. We have terrific young kids. But that's a little bit beyond I think what we would expect of the twenty to twenty-five year olds ability to handle so many different documents. So when--and I'm not even sure how many of them ever saw the final one that got down there. There was so many drafts in-between.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And I guess I have a couple of questions based on that of what you just told us, Sir. You mentioned that there were several drafts that were in the possession of some of these Soldiers, but of course at that time period only two policy letters were actually signed by General Sanchez. The one in September and the one in October. And of course there was one later on in the spring, but specifically on those two. Whose responsibility was it in your view to make sure that those Soldiers were only operating with signed policy letters?

[U] A. In my view the way that--we established it should have been the person in charge of JDIC, Lieutenant Colonel Jordan. Now you could also say then that was the responsibility of the Senior MI Commander there who should have ensured across the entire Military Intelligence Operating that it was the right policy at the right place.

[U] Q. Yes, Sir. My second question is, MI folks will argue that they are in fact not limited by what is taught at Fort Huachuca and the specific techniques that are described in the FM. They like to refer to a paragraph that says something about interrogation techniques are only limited by the imagination of the interrogator with the caveat of course that interrogations have to comply with all applicable laws and regulations.

[U] A. Right.

[U] Q. That differs a little bit from what you said where because we're dealing with such junior folks, they ought to limit themselves to what they were taught at the school. And, --

[U] A. Well, I think what--when it says it's up to the imagination of the interrogator, it says--it also says don't violate the law.

[U] Q. Right, Sir.

[U] A. I mean that's a clear distinction of what they're taught.

[U] Q. Yes, Sir.

[U] A. In telling somebody to take all their clothes off and be naked while you're interrogating them or to put them into isolation with no--and deprive them of all their senses is also--both of those are violation of law.

[U] Q. Yes, Sir.

[U] A. And they knew that. When you asked them after the fact. You say, "Did you really think about that?" "Well, yeah. I guess it was."

[U] Q. What techniques did they think they were using when they were stripping the detainees? Did that even fall into one of the categories?

[U] A. No. That is a--no, something that I think fell out of Special Operations Afghan CIA. It sort of migrates its way into the Soldiers.

[U] Q. Sir, it is our understanding that, that General Sanchez believed, he recognized that he had this mix of experiences from different countries. As well as a mix of training levels within his interrogators and that actually drove his decision to actually publish these policy letters and put out some guidance and set up some limitations. Was that a bad decision on his part in your view?

[U] A. No, I don't think it was a bad decision. It just it was too long in coming. Now that--because interrogations were taking place while all these drafts were being written and staffed. And what nobody ever knows, I mean how many times have you ever gone down and check on the fact that somebody never has the--I mean you do it all the time as an IG. You don't have the most current regulation. You don't have the most current policy. You're following something that is outdated. You know and unless you have a religious way of going back and checking that, you never really know what people are using. Hell, we all go back and pick out the last FM we got when we were in school. And that happened in this case too. One of which had a violation of the Geneva Convention in it.

[U] Q. And which one would that be, Sir?

[U] A. I don't even remember the date right off. I'd have to go back and look at it. It was--it's not the current one. It was one that was published I think in '87.

[U] Q. Which technique did it include that in your view violated the Geneva Conventions?

[U] A. I'd have to go back and look at to tell you the truth.

[U] Q. Okay.

[U] A. But I know they--they purposely changed the FM because when the lawyers went back and looked at it, they said no, that's not right. And I just don't remember.

[U] Q. I know that Mutt and Jeff was one that was dropped from the original.

[U] A. Yeah.

[U] Q. And I don't know if that's the one that you're thinking about.

[U] A. Yeah, and I don't know if that's the only one or not.

[U] Q. I think there were a few.

[U] A. Okay. But I know I've used FMs out of world War II because they are simple and easy to read.

[U] Q. Yes, Sir. Sir, in your view did any of the interrogation techniques that were listed in either letter violate the Geneva Conventions?

[U] A. No, I don't think they did. The interpretation of them violated the Geneva Convention in some of the cases, and the two or three that bother me are --one is the dog misinterpretation completely. Dogs are to be used for security not to scare somebody.

[U] Q. Right.

[U] A. And that was taken completely out of context. And then the other one is the isolation. It is a technique which can be used. It's allowable, but you have to do it under the right conditions and that didn't happen. So it wasn't just the techniques that were there. It was the way they were implemented.

[U] Q. And whose responsibility was it, Sir, to ensure they were implemented within the Geneva Conventions?

[U] A. Again I would have to say at Abu Ghraib it should have been the JDIC leader, Commander, Director, however you want to--Lieutenant Colonel Jordan.

[U] Q. Yes, Sir. Sir, do you know whether any of the detainees that were abused by the MPs--

[U] A. Uh, huh.

[U] Q. The horrible pictures that everyone has seen. Were any of those folks going to be interrogated? Do you know?

[U] A. There were, if I remember correctly, in General Fay's report there are one or two that were to be interrogated.

[U] Q. But the bulk were just regular criminals?

[U] A. Yeah. I'll just say my thesis going in was that there was direction given to stage this in front of the people you wanted to interrogate. To frighten them so that they thought if we don't cooperate this is what's going to happen to us. And that was not true. That thesis was proven false. So, how they chose those people, I believe is just a fact that the night shift essentially grabbed whom they wanted.

[U] Q. Were they bored?

[U] A. Historically, and there's all sorts of papers and studies that have been written about the people who are running detention facilities will take advantage of the people they're detaining. That occurs in prisons-civil prisons. It occurs almost in every case. So psychologically unless people are prepared to discipline that from not happening, you can expect that it will happen. And so that's the first--you kind of set people up when you're in charge and somebody else has no means to bite back.

[U] Secondly, , this is my personal view, this is an amoral group of people of four or five. And you've seen that in some of the trial reports that have come out since then.

[U] Q. Right.

[U] A. And so I believe their behavior was based on a lack of morality and a position of authority which allowed them to take advantage of their low moral standings and character. I will tell you, my wife thinks they were trying to make a pornographic movie. I mean you just look at the things they did. They're absurd.

[U] Q. Yes, Sir.

[U] A. And then the physical beatings that they were stomping on people that were already hurt and injured is just--that's inhumane. I just can't fathom any American Soldier doing that to somebody else. You know? Unless that other person is threatening them with their life and he's got a knife at their throat. And the only way that they can do it is to beat them back.

[U] Q. Yes, Sir.

[U] A. But that clearly was not the case.

[U] Q. It's my understanding, Sir, from my review of reports, that actually there were only a handful of abuses that actually occurred during interrogation.

[U] A. That's correct. That we found.

[U] Q. Yes, Sir, mostly involving nudity or some degree thereof.

[U] A. There is the one case with the dogs.

[U] Q. And that was my question, Sir. So there was evidence that dogs were used during an interrogation?

[U] A. Yes.

[U] Q. Okay, and you----

[U] A. Clear evidence of the interrogators bringing dogs into the cell with the explicit purpose of scaring the----

[U] Q. But that did not occur in an interrogation booth, it occurred in a cell? Do you remember?

[U] A. That's correct.

[U] Q. Okay, Sir. All right.

[U] A. But it was, nevertheless it was a preparation for an interrogation, it was not--

[U] Q. Okay, Sir.

[U] A. It was very clear that that's what they were doing.

[U] Q. And they indicated their understanding was the use of dogs was authorized based on the policy letter?

[U] A. I'm not if it was their understanding or their saying that that was their understanding.

[U] Q. Yes, Sir.

[U] A. The policy letter which said that dogs could be used was for security.

[U] Q. Right.

[U] A. It was not for interrogations.

[U] Q. Yes, Sir. Do you think any of these folks legitimately misunderstood that, or do you think they interpreted it that way on purpose?

[U] A. I can't read their minds. I don't know.

[U] Q. Okay, that's fine, Sir. All right. Sir, I'm going to go ahead and pause the tapes and pull them out because we're getting really close to them reaching a stopping point.

[U] A. Sure.

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1200 and I am going to stop the tapes and switch them out.

[U] (b)(6)-2 & (b)(7)(C)-2 The tape recorders are back on and the tape-recorded portion of this interview continues.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. All right, Sir, was it your understanding that Colonel Pappas believed that he had the authority to use dogs during an interrogation?

[U] A. No.

[U] Q. Okay. Sir, on the second letter, the interrogation policy stated that it specifically applied to security detainees as opposed to EPWs and Civilian Detainees that were listed in the first letter. Now, folks we have talked to have said that was a deliberate characterization because at that point they no longer had EPWs. Hostilities had ceased. Everyone we had in that prison could be categorized under one category and that was a 'Security Detainee'. In your view did that change result in any confusion? Did it cause any of these folks to believe that they had some folks that were of some other category and therefore this policy letter didn't apply? I'm just trying to pin down in what way did that particular change cause any confusion.

[U] A. Yeah. I think it was more of a legalistic determination in writing a letter that there was no such thing as an EPW in Iraq anymore. That anybody that was picked up was a detainee. We had gotten rid of the Iraqi Army. It didn't exist. So therefore it was very difficult to identify anybody. At the time that they wrote that final policy letter that you had no Prisoner of War. And so it didn't--I think the interpretation in preparing it was it didn't apply. That's the people who preparing the document. The people who were implementing it both the Military Police and Military Intelligence Soldiers, I don't believe that it was impressed on them that the person that they were--I mean that it--there is a distinction. We trained them exclusively on EPWs in our schools and now all of a sudden they have somebody that's shown up that said 'Detainee'. Well if we're going to justify the Geneva Convention who cares what we call them? It's the rules that apply not what you label the person that's sitting there. So I think it's a legal distinction that was made rather than by preparing the document rather than an interpretation of how people were to look at the person that they had there. And it's still a challenge in Afghanistan. They still call them PUCs.

[u] Q. P-U-Cs?

[u] A. Yeah.

[u] Q. Yes, Sir.

[u] A. And so we've got all these labels that are out there that are not doctrinal terms; that are not legal terms. They're a person that you are given to keep in this facility, detention facility, that is now labeled a 'detainee'. I don't think the Soldiers to them it really makes a significant difference. I think legally it does.

[u] Q. Do you think it caused any of them to think that some of these detainees did not fall under the protection of the Geneva Conventions?

[u] A. I think those that had experience in Afghanistan or Guantánamo started questioning that. So we kind of set up a level of misunderstanding about that, but when they go back and read it again, it's clear that yes the Geneva--you know you asked them the question did you understand that the Geneva Convention applied at Abu Ghraib and they said yes.

[u] Q. Yes, Sir, okay.

[u] A. So it caused confusion, but in the end they really did understand that regardless of what label or--in Abu Ghraib the Geneva Convention applied.

[U] Q. All right, Sir. Sir, what role did General Fast have with respect to the interrogation policy letters? It's our understanding that she was actually absent. Was back in Germany getting some medical work done when the first policy letter came out; and quite frankly we're having difficulty identifying anyone on the C-2 staff that was involved in the development and staffing of those interrogation letters and we were wondering----

[U] (b)(6)-2 & (b)(7)(C)-2 Short of the SJA.

[U] (b)(6)-2 & (b)(7)(C)-2 Right. Right. But in the C-2----

[U] GENERAL KERN: But not in the C-2, yeah.

[U] (b)(6)-2 & (b)(7)(C)-2 In the C-2, but not in the C-2 itself.

[U] (b)(6)-2 & (b)(7)(C)-2 Correct.

[U] GENERAL KERN: Yeah.

[U] (b)(6)-2 & (b)(7)(C)-2 We know that there were 205th MI people involved in providing input.

[U] GENERAL KERN: Yeah.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. But we can't pin down the name in the C-2.

[U] A. That's consistent with what we found. A Captain who was down in the JDIC was the primary MI Brigade personnel involved in the staffing of it and at the CJTF it was the SJA Officer that it was primarily staffed, not in the C-2. And our finding was consistent. General Fast was out of the country when the drafts were being prepared and reviewed and then came back after they had in fact had been approved.

[U] Q. Yes, Sir, should she have had a role in the staffing of this interrogation policy either by doctrine or by just little military duty?

[U] A. In my view clearly yes.

[U] Q. Okay, Sir.

[U] A. If not she somebody in the C-2, of at least a Colonel's level should have been involved.

[U] Q. It has been our view that it appears that the SJA actually took the lead on developing the interrogation policy. That they were the ones that, that rightly so, made the determination as to whether or not the techniques that were listed fell under the Geneva Conventions. And that the input that they got primarily from the MI folks was on what types of techniques to use. There doesn't seem to be any evidence that the MI folks were ever really involved in making a determination on Geneva Conventions applicability. Is that your view as well?

[U] A. Right. Yeah, that's consistent with what we saw.

[U] Q. Sir, was it a failure in your view on General Fast's part to not have been more involved in the development of the interrogation policy? Because we don't see where even after she came back and was present at the time of the October policy that she even for that matter read it before it was actually published.

[U] A. In retrospect I think the answer to that is yes, she should have. In reality I believe what happened was that there were a thousand things she was supposed to be doing. Building the JDIC and the process of how it was to operate and doing the fusion of the intelligence was a rather significant and huge task by itself. So when she reappeared and found that the policy had already been approved and she was getting results back from it, intelligence interrogation reports--her mission was to look at those intelligence reports and fuse them into usable intelligence by the Commander; and so you know, I think instinctively, said that's done. I mean why would I go back and redo something that's already giving me what I need to do and I've got six thousand other pieces of it. Dealing with the ISG, dealing with the CPA, dealing with the national and international issues. How do we get intelligence across those boundaries? How do we fuse all this? How do I take the tactical intelligence and fuse it with these interrogation reports? How do we cross-reference all these databases that are being produced? How do I cross-level with interrogations that are going on within Guantánamo? Is there any correlation between what we're hearing there and what we're seeing there? And so you know what she was asked to do as an Intel Staff Officer I think was overwhelming, time consuming, rather than going back to looking at something that had been approved. But I said retrospectively now that you see that there's some--well the confusion that was caused by it. You know, I--

[U] Q. Yes, Sir, now she might argue that even if she had read the interrogation policy memos it was still not her call to make a determination on whether or not the interrogation techniques were okay under the Geneva Conventions, and that in fact all of those techniques, most of them were found in the FMs. Some of them were not. But they were interrogation techniques that were being used elsewhere in the world with some success.

[U] A. Yeah.

[U] Q. So that it was unlikely that she would have had a problem with policy letters; and so in fact her failure or whatever you want to call it to participate in the staffing of those policy letters had no effect on what was ultimately----

[U] A. Well, I would agree with that. I mean whether something is legal or not is not her call. It would be the--you would go to the SJA and say--particularly if you had a SJA who happened to have taught that the law school.

[U] Q. Right.

[U] A. You would assume that he reviewed it and said it was okay. It was okay. And if I were--if I were in any position other than the SJA and somebody said--handed me a document and said is this legal? I would say take to the SJA. You know so I don't think that that statement is inappropriate at all for her to have said that.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, do you have questions about policy letters?

[U] (b)(6)-2 & (b)(7)(C)-2 No, thank you.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Yeah, I would just footnote. I mean the biggest problem I have is the fact that we have so many different policy letters and that the interrogators are a group of Soldiers and contractors who came from lots of different organizations. And most of them are Reservist and they were pulled down out of these units and put into this one organization called a JDIC. When you have organizations like that, the simpler you can make life, the more clear you make things for them, the better. We did just the opposite. Just make it very difficult.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And, Sir, the policy letters were several pages long and it had annexes to it. Multiple safeguards were listed----

[U] A. Right.

[U] Q. --that were in and of themselves fairly long paragraphs and little tiny print.

[U] A. You know it's sort of interesting what our--what our policy and doctrine says is there should be one thing in the interrogation booth. The Geneva Convention needs to be posted.

[U] Q. Yes, Sir.

[U] A. Keep it simple.

[U] Q. Yes, Sir.

[U] A. Now how you interrogate somebody is your interpretation of how you're behaving. Now, if you respond to a tough approach take a tough approach. If you respond to the nice guy approach, hey you're their best friend. The Geneva Convention applies.

[U] Q. Yes, Sir. And concerning the number of policy letters, Sir, we've already talked, who should have ensured that only signed policy letters were in fact being implemented. But some have argued that the interrogation policy development was in fact an iterative process. That they published the first letter, sent it to CENTCOM, while simultaneously implementing it, got feedback from CENTCOM, the CENTCOM lawyers, that they believed was valid, and thus took that input and changed the letter which became the 12 October, 2003 letter; and were in fact making an effort to improve the policy letters. And that in itself was not a bad thing.

[U] A. It wasn't. It was just too late. It should have been done before we started the operation. Did we know we were going to conduct interrogations? Hell, yes. You know, why do you wait until you're months into an operation to write the policy letter? That's the problem because then you end up with all these Soldiers arriving, transfers of authority, changes of commanders; all those things that happened; and they don't have a final policy letter to use.

[U] Q. Sir, I'm going to play devil's advocate here. Some have argued the exact opposite. That there shouldn't even have been a need for a policy letter from the get-go.

[U] A. No. I could-- yeah, I could take that same view. You have a Geneva Convention. You have a doctrine. You have a training routine that you put people through. I would agree with that.

[U] Q. Yes, Sir.

[U] A. But my--I guess my point is that if you're going to write a policy letter, you should do it before the operation so that you can train people on how to implement that policy letter not in stride.

[U] Q. But it doesn't appear that General Sanchez recognized he had those different backgrounds and different levels of expertise in his interrogators until, I want to say, the September timeframe.

[U] A. I don't know that I could put a date on it, but he clearly didn't when he came out of the Division Command and thrown into this Corps Command Headquarters, stood up these organizations, and the level of understanding of the capability of each individual I'd doubt that he had any idea for many months.

[U] Q. Right. Yes, Sir, so that wasn't necessarily a failure on his part perhaps?

[U] A. No.

[U] Q. Just--okay.

[U] A. I mean how many MOSs do you have in a CJTF?

[U] Q. Exactly.

[U] A. You got other Services that are showing up now or could have. Not--didn't have a lot of them showing up but you did have Navy people in there. You did have a couple of Air Force JSTARs Analyst.

[U] Q. JSTARs?

[U] A. Joint Surveillance Target Acquisition Aircraft that flies around.

[U] Q. The AWACS?

[U] A. Not AWACS. But it's a--

[U] Q. Oh, okay, it's different?

[U] A. Different, yeah, but they were the Air Force people who got put into that JDIC.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Do you have anything along those lines, Sir, before I--

[U] (b)(6)-2 & (b)(7)(C)-2 Generally as it pertains to interrogation policies. Sir, you've kind of brought up the fact the ISG was there. There were OGAs running around and there were some other numbered Task Forces. I imagine, you recall, that did not work for CJTF-7 but worked for CENTCOM or other authorities.

[U] A. Right.

[U] Q. Sir, did you, find any indication in your investigation that some of these other organizations may have been operating on interrogation policies within Iraq, that was generally designed for outside of Iraq? Like GITMO or Afghanistan that tended to confuse the situation.

[U] A. Yeah. I'd say there is evidence to that effect, I did not find any policies that said that and I did not get into any of theirs, because they wouldn't let us for one. I don't have any of their documents that they were using. So I don't know precisely whether they were using Afghan or Guantánamo policy letters in Iraq. It's clear, you know, from the evidence the way they were behaving that they were using something that was not within accordance of the Geneva Convention.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And what specific evidence did you run across, Sir, that would cause you to come to that conclusion?

[U] A. Two or three pieces of it. The first that they were not registering detainees.

[U] Q. The ISG was not?

(b)(1)

[U] Q. The Saudis did?

[U] A. No, no.

(b)(1)

(b)(1)

[U] Q. Right. Okay.

[U] A. See we did not know that they were Saudis.

[U] Q. Okay.

(b)(1)

[U] And the third case is the one which has been brought to court. You know where the SEALS brought in a member from the CIA detention who finally died in the facility. If they'd done it right the first thing they would have brought him in for medical attention. Register him and then taken him to a cell. That didn't happen.

[U] Q. All right, Sir.

(b)(1)

tell you. Outside the policies and legal limits that we were operating.

[U] Q. How about (b)(2)-4 Sir? Of course it has multiple names, but did you come across any evidence that they were involved with abusing detainees either at the point of capture or during interrogation?

[U] A. I could not tell you.

[U] Q. Okay.

[U] A. I mean there are so many different confusing names between ISG, (b)(2)-4 CIA, SEALS, Special OPS Units, et cetera. That it's hard to say when somebody showed up or did something that I can identify precisely what organization they came. And there are no records of it. And so it'd be strictly a verbal report that we would have for you.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay. Do you have any more questions along that line, Sir?

[U] (b)(6)-2 & (b)(7)(C)-2 No.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: , I think the frustrating part for all of us is that, and I will just tell you just so that you understand. Senator Reed when I was getting ready to testify said, "Did you talk to Ambassador Bremer?" I said, "No." And he said, "Why not?" I said, "Well I didn't have any reason to. No one said that he told us to do something that was illegal or immoral." And he said, "Well who does the Station Chief work for?" I said, "Bremer." And he said, "Who does Fast work for?" "Well she works for Sanchez and for Bremer." "Now, how do you know that if Fay was told no, we're not going to cooperate with you that that didn't come from Bremer?" I said, "Well, I don't." I asked Barbara Fast that afterwards. "I had never even--I did not take part in…' I said, "You're being accused of cooperating with Ambassador Bremer and holding back information." She was absolutely taken back. You know her statement to me. Not a Sworn Statement. It just was, "I had absolutely no discussion like that with him." But that accusation is out there.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: I find no evidence that there is any truth to that, but we do clearly have that; and there is a lack of evidence of what the CID did.

Because they would not provide us any documents. And a lot of the documents I think you've seen were destroyed before we could get them. They were actually in the prison. So there's a lot of things that are taken by verbal account not by any document that we could prove to you.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay, Sir. Any more, anything else on that one?

[U] (b)(6)-2 & (b)(7)(C)-2 No.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Let me just give you a footnote on this too. I was last week up at Harvard and met with all the Fellows that we have there. Different Services and I don't know if you've talked to this one. One of them was the SGS for Sanchez.

[U] (b)(6)-2 & (b)(7)(C)-2 The SGS? Who was that, Sir?

[U] GENERAL KERN: I'll have to go back and find his name now.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: You're asking one thing I have a huge weakness is I don't remember anybody's name.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay, Sir.

[U] GENERAL KERN: My Aide was with me, so he could probably--we can get you the list of people to figure out who it was.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: I did not know him personally. They asked me two questions. And I briefed them on Abu Ghraib because--so that they'd at least have some background. As Fellows they were representing the--there are two questions to me from the other Services. Why haven't we done anything yet. Why is the only thing that we see is happening is to Privates and Sergeants? So there's a frustration out there about the amount of time its taken to proceed with anybody above the rank of MP Sergeant. And the SGS came up to me and said, and it just probably went on for five minutes, about how much General Sanchez had tried to do to overcome any of these problems that were out there. Polices he had written. Directions he had given. Et cetera. He--he was, without my even asking him and all I gave was a few charts of

here's the facts of what we found. The same thing I presented to the press and to the Senate. He was very, very strong on what he thought General Sanchez had tried to get done. And that was just his background for you.

[U] (b)(6)-2 & (b)(7)(C)-2 Right. Okay, Sir. We'll check with your Aide afterwards and get his name.

[U] GENERAL KERN: Yeah.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir, we're going to ask you for your legal opinion now. On several things.

[U] GENERAL KERN: Okay.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. I just want to real quickly review what Article 92 of the UCMJ says regarding dereliction of duty, and that is dereliction in the performance of one's duties consisted of three elements: First, a person had certain duties. Secondly, that that person knew or reasonably should have known of those duties; and three, was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. So three elements of proof for Article 92 of the UCMJ, Dereliction of Duty. I know you're not a lawyer, Sir, but given those three elements, and given that the report found that General Sanchez and General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations, and given the complex and violent environment in which CJTF-7 was operating in an under resourced manner as the report pointed out, and I think most people know and understand, would you, in your opinion, say that General Sanchez was derelict in the performance of his duties as it pertain to----

[U] A. No, I would not.

[U] Q. And can you elaborate on why?

[U] A. Yeah, I think that you could find some proof that the first two elements may have been supportable but not the third.

[U] Q. Yes, Sir.

[U] A. There was clearly in my view absolutely no willfulness, negligence, or inefficiency on his part to commit dereliction of duty violation.

[U] Q. All right, Sir, the same question for General Wojdakowski.

[U] A. And I would say the same thing.

[U] Q. Yes, Sir. He of course had the more specific direct oversight of those people----

[U] A. He had the more specific oversight so there is more evidence of the first elements of being supportable. But he was so over tasked by the number of things that he had to do, that I saw no evidence of anything either--clearly not willful. You know, I don't know how much more efficiency you could have squeezed out of that turnip.

[U] Q. Right. All right, Sir, and then the same question for Major General Fast?

[U] A. No. I think General Fast, one, in part because of her absence during a critical period of this, and two by her tasking to build an intelligence picture to all those elements that we discussed earlier; never really saw that her mission was oversight of the interrogations. Establish of the JDIC was her mission and she had done that. Establish of what happened with the information that came out of it, but not the conduct of the interrogations. So I think, you would have in my view, she accomplished the first two very admirably of establishing the right processes and of doing the intelligence fusion, and I don't see that conduct was something that she felt nor would--did anyone else believe was in her bailiwick. The conduct of that went back to the Commander. And that's the problem I felt the whole Military Intelligence organization where you--when you don't assign a task to a Commander you end up with staff in-between.

[U] Q. Right. And so even though there was no formal assignment, it does appear that Colonel Pappas at least attempted to wrap his arms around it and accept responsibility, but that responsibility was never formalized by an order as you've gone through.

[U] A. That's right.

[U] Q. Yes, Sir.

[U] A. The order encompassed all of Iraq not specific to Abu Ghraib.

[U] Q. Yes, Sir, and of course it's a little murky with General Fast because of the doctrinal responsibilities that

she had as the C-2. But in your view did not rise to dereliction?

[U] A. In my view it was not dereliction. --

[U] Q. What could she have done that she didn't do?

[U] A. I guess what she could have potentially have done is told the Commander to throw the policy letter he had written and go back to the basic doctrine and we'd all be in much better shape.

[U] Q. And how about with respect to the JDIC, Sir?

[U] A. I think--and--now this depends upon and I cannot give you an assessment other than the fact that we know she spent half her time supporting Bremer and the ISG efforts and all of that. And in terms of the fusion piece. Now she did visit the prison. The only other thing that she could have done is okay, I've traded this organization called the JIDC and I've given it some taskings, to go down and do an AAR of how it was operated. But I would have expected that Jordan would have done it and reported to her on it. So perhaps the part that she failed to do was to require Jordan to come back and provide her that assessment.

[U] Q. And of course she viewed Jordan as working for Colonel Pappas?

[U] A. Right.

[U] Q. Okay.

[U] A. And Jordan swears that he didn't work for anybody.

[U] Q. Yes, Sir. And finally, Sir, even though we have not talked about him a lot, was Major General Tom Miller, the C-3 derelict in his duty in anyway?

[U] A. No.

[U] Q. Now we talked about maybe he should have been more involved in terms of operations and interrogation operations being one of those operations that he should have been responsible for and perhaps should have been--done more in terms of the integration of interrogation into the operations. You had addressed that earlier.

[U] A. And I don't think he's derelict in that. I think it's--and part of the whole problem I would argue is that a CJTF is a Joint Organization.

[U] Q. Yes, Sir.

[U] A. Albeit we're talking about our Army. So where is the J? Where is the doctrine and the training for how this organization is going to--and the only Joint person we had there was the Marine Chief of Staff who was working for Bremer.

[U] Q. Right.

[U] A. And we had an Australian Lawyer and a couple of other people who were parts of the staff. But we really lack a training organizational process. A BCTP-like effort for Combined Joint Task Forces that are created out of whole cloth when you're in the middle of an operation. You know we always write an order. Send people off. Put them through the training. Do the AARs, retraining them where they fail; and keep doing it. None of that happened. So when you go down and you say were these people derelict? They were doing, I believe, the very best they could do given a myriad of missions which over tasked them to begin with. So they were trying to sweat through the priorities of what was important. And that's where the system failed, I believe rather than dereliction of any individual to provide that. I mean were those folks sitting there just kind of twiddling their thumbs and going out to the bar at night drinking? Hell no. They were working seven days a week, eighteen, nineteen, twenty hour days. Jumping between two Headquarters. Between the CPA and the CJTF trying to pull all those pieces together. And I think we need to remember that our report is focused on specific narrow areas. that had lots of complicity of where it broke down. But to put it back at a senior staff level who had these other things to do and label it dereliction I believe was wrong.

[U] Q. Yes, Sir.

[U] A. Were they perfect? No. Did they miss something? Yeah. Were they derelict? No.

[U] Q. All right, Sir.

[U] A. That's my opinion.

[U] (b)(6)-2 & (b)(7)(C)-2: Okay, Sir. Sir, do you have any other questions?

[U] (b)(6)-2 & (b)(7)(C)-2: Sir, I do. And again this is where we're seeking some senior leader perspective. Realizing that

you're, number one, the General, two you've investigated the situation; three you've testified to Members of Congress. Obviously, these reports will become part of the Army Record, and they're going to have a very long life. They will be requested for official purposes and read by any number of people. Potentially even, you know, Members of Congress I would expect. So, there's a lot of concern about holding senior leaders accountable or responsible in these matters. Obviously we have to make a finding based on the facts as far as allegations go.

[U] A. Right.

[U] Q. But outside of that, how do you interpret or describe holding people accountable? How would you describe that process or what that charter is for the kind of folks we've talked about today? Understanding, how the Army is going to be looked at, how these individuals will be looked at of for what they did; what they may have failed to do. Potentially through no fault of their own. What is holding them accountable mean to you?

[U] A. I think it goes back to my original statement that when we accept command, we accept responsibility for all the people that are in that command. And I use the word 'responsibility' as opposed to 'accountability'. You hold everybody inside your command accountable for their actions. In General Sanchez's case, I believe he accepted the responsibility for what happened, and he directed investigations to find the accountable person where it failed.

[U] When it became a question that perhaps he might be involved, he asked to be recused from it and asked for another Appointing Authority. So I believe his integrity in trying to define accountability is very clear. And in doing that and saying that okay maybe I had some responsibility. Maybe I had some accountability as well. We found and I personally believe that he holds himself personally responsible and has said that publicly for what happened. And had he been given that Red Cross report and the staff provided him some of the investigative CID actions at the tactical sites and put all that together; had he had an organization, a Four Organization… A staff that was practiced and functioning together that would come to his attention. But it didn't until after the atrocities, abuses, were reported. So I believe he took responsibility to fix accountability and did the right things. And he personally from an accountability standpoint did the right things both in what he tried to do previous to that and what he was doing after the fact once he found out that something in fact had gone awry.

[U] I believe General Wojdakowski, has more direct responsibility over those Brigades. And in retrospect,

should have taken those two Brigade Commanders in and sat them down and defined more clearly and changed the command relationship if necessary. I also believe he was over tasked in the number of Brigades he was asked to supervise and the kinds of things that he was asked beyond just command relationships to solve problems on. So I don't believe that he was derelict and was and held himself accountable for what did happen. And just didn't see this other piece of it developing; and again he didn't get the Red Cross report until after the fact. Which to me keeps coming back as one of those key points.

[U] If I were to fix the whole problem to begin with, and one I believe doctrinally and organizationally we need to fix the Military Intelligence community so that there is clear accountability and responsibility and a line of authority. That is the case in the Military Police Units. Not in the case of the Military Intelligence Units.

[U] The second thing that I believe for accountability when you're conducting detention operations and you have mixed organizations. Military Police, Military Intelligence, OGAs, you need to clearly define someone in charge of all aspect of it. Now that has been done retrospectively. And it probably ought to be in a multi-Corps type operation. It ought to be a General Officer not a Staff Officer and not a Colonel who has other General Officers who have pieces of the organization. You need to put a senior General Officer in charge. And that will fix the accountability and responsibility chain. So that things that became unclear are no longer a question.

[U] And third I believe that detention operations historically have created problems. We saw it Viet Nam. We saw it here. We see it in our own prisons here in the United States. Penitentiaries and state prisons. And so there ought to be warning flags and independent assessments as long as we have detention operations going on. That we have an independent method for commanders to get report to go outside of that chain of command. Somebody who is an IG, an ombudsman, however you want to describe that function and it will be joint function so it may not fit precisely into Army terms. But the Commander needs that feedback directly or we will see these kinds of events happen again I believe.

[U] And finally I personally believe that the Geneva Convention ought to be held almost sacrosanct in how we conduct operations. Both because it represents the values that "we" expect of our Soldiers but it also represents how we would like our Soldiers be treated or anybody else. It might be contractors. It might be Department of the Army, Department of Defense Civilians, by other countries if they are held as

detainees. And so I think we need to ensure all those pieces occur in order to ensure that we have accountability and responsibility tied together. You can't separate them and that's what happened here, we separated them.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Are you wrapped up with your formal questions for everyone?

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, that does wrap up my formal questions, Sir. Is there anything else you would like to add or anything that we failed to ask you that you would like to bring out concerning what we've discussed?

[U] GENERAL KERN: We've implied it a couple of times, but when you do transitions and you do--and we have more TOAs that are coming up, in operations as I look at it. I think that's one, we ought to ensure that we don't change all of the commanders at the same time.

[U] (b)(6)-2 & (b)(7)(C)-2 Right.

[U] GENERAL KERN: Which is one of the contributing factors to this. And two, we ought to have some checks after transitions occurred to ensure that directives and policies which have been implemented prior to it continue the way we want them to occur after the transition. Now who should do that? I said, and clearly you and I are sensitive to detention operations. There are probably other operations that ought to have some oversight as well, but that's one that ought to make sure that when you go through a transfer of authority and there's transitions of commanders, that we don't lose very focused discipline over how those operations are conducted.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] GENERAL KERN: Too much can go wrong.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. Okay. Is there anyone else you think we should talk to?

[U] GENERAL KERN: But I would suggest that SGS who worked for-- and we'll find his name out there. For General Sanchez, because he, as I said, he provided some rather spontaneous insights to me. And the part that is troubling me right now is I don't know what discussions took place in the preparation of the Phase IV Plan. In terms of how we should expect insurgency and detainees, my indications are that the Brits thought there was--that we were naive. Now--

[U] (b)(6)-2 & (b)(7)(C)-2 So who would you recommend, Sir? Folks at CENTCOM?

[U] GENERAL KERN: CENTCOM.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Now the problem is we're now going back three years. CENTCOM was a Joint Staff. I mean that's when that plan was written.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] GENERAL KERN: So the people who are there now aren't the same people.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: And I guess you ought to bang the CIA IG to get on with.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] GENERAL KERN: The DoD IG in your case to go back up.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: To get that part done. I talked with the former Military Assistant to Secretary Rumsfeld, now SOUTHCOM Commander, and he thought that unless Rumsfeld energized the CIA we'd probably--this would just drag on.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: So John Craddock who understands them pretty well knows that--you--and they need some urging to get this thing moving.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, I'm sorry, what does he command now?

[U] GENERAL KERN: SOUTHCOM.

[U] (b)(6)-2 & (b)(7)(C)-2 SOUTHCOM. Okay. I'm sorry. Okay.

[U] GENERAL KERN: And I guess the other point I would make is not to go talk to more people but there are a lot of people out there who are waiting for results.

[U] (b)(6)-2 & (b)(7)(C)-2 Right.

[U] GENERAL KERN: Much more than you know the MP Sergeants who are being prosecuted right now.

[U] (b)(6)-2 & (b)(7)(C)-2 Right. Yes, Sir. All right. Unless you have anything else to add then, Sir, I'll go ahead and go into the formal read-out.

[U] GENERAL KERN: Okay.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. We are required to protect the confidentiality of IG inquires, and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties your testimony may be released outside official channels. Individual members of the public who do not have an official need to know, may request a copy of the record to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] GENERAL KERN: I think the answer is yes. But I guess the question is, I--how about all the people whom we name in this? Do they get to see it before somebody else does? That's always troubled me.

[U] (b)(6)-2 & (b)(7)(C)-2 Not necessarily, Sir.

[U] GENERAL KERN: So if Jim Smith asked for a copy of my testimony he gets to read it and Sanchez and Wojdakowski and Fast and Pappas and Jordan don't?

[U] (b)(6)-2 & (b)(7)(C)-2 May not, necessarily no.

[U] (b)(6)-2 & (b)(7)(C)-2 Your testimony, Sir, is normally redacted before it's sent out. If you put--if you say FOIA no that is the highest restriction and it generally will not be shared. If you say FOIA yes, then it can be shared for unofficial purposes and there will be some redaction to protect the confidentiality.

[U] GENERAL KERN: I have mixed feeling on this one. Do you have any----

[U] (b)(6)-2 & (b)(7)(C)-2 No, Sir. We--we make no judgment on it. It is absolutely your decision. And I would do whatever just feels right for you, Sir.

[U] GENERAL KERN: I'll say yes.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: Because I think as you suggested earlier we're going to have to study and use this in the future to--

[U] (b)(6)-2 & (b)(7)(C)-2 One question we didn't ask, Sir, is there anything we discussed today that you think was classified?

[U] GENERAL KERN: I'd go back and look at the discussion around the CIA. General Fay and I have had this discussion a couple of times, and he believes that what we've got is not classified. The CIA has challenged that.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: Now, I don't know if they've challenged it just because they don't want it discussed or not.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. Okay, do you have any questions, Sir?

[U] GENERAL KERN: No.

[U] (b)(6)-2 & (b)(7)(C)-2 All right.

[U] GENERAL KERN: I appreciate what you're doing. I know this is a tough one.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. The time is 1245 and this interview is concluded.

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[Testimony of **GENERAL PAUL J. KERN** was recorded by means of magnetic tape, and transcribed and certified by (b)(6)-2 & (b)(7)(C)-2 Certified Closed Microphone Court Reporter, United States Army Inspector General Agency, Presidential Towers, Crystal City, Virginia.]

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Interview of **AMBASSADOR L. PAUL BREMER**, Former Ambassador, CPA Iraq taken at Chevy Chase, Maryland, on 21 December 2004 between 1005 and 1057 hours, by (b)(6)-2 & (b)(7)(C)-2 and Colonel (b)(6)-2 & (b)(7)(C)-2

Persons present are the witness, Ambassador Bremer and the inquiry officers, Colonel (b)(6)-2 & (b)(7)(C)-2

This inquiry is directed by The Inspector General of the Army concerning allegations against senior officials at CJTF-7.

An Inspector General is an impartial fact-finder for the directing authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases disclosure to other persons may be required by law or regulation or may be directed by proper authority.

Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your social security account number to help identify you as the person testifying, you have been previously provided with an explanation of the Privacy Act. Do you understand it, sir?

AMBASSADOR BREMER: Yes I do.

(b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue I want to remind of you the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Do you have any questions before we begin, sir?

AMBASSADOR BREMER: No I don't.

(b)(6)-2 & (b)(7)(C)-2 Please raise your right hand so that I may administer the oath.

[The witness complied, was sworn, and testified as follows:]

Q. For the record please state your name.

A. L. Paul Bremer.

Q. Your former position and organization with respect to your duties in Iraq?

A. Presidential Envoy to Iraq and Administrator of the Coalition Provisional Authority.

Q. Your social security number, and this is voluntary?

A. (b)(6)-4 & (b)(7)(C)-4

Q. And an address, either home or office, keeping in mind that the return address on any correspondence from this office will indicate that it is from the Department of the Army Inspector General?

A. (b)(6)-4 & (b)(7)(C)-4

Q. And a phone number sir?

A. You know, I have a problem with the phone number because if it -- is that going to be accessible to the public? It's not a recorded ----

Q. Sir, it ----

A. --- it's not a public number.

Q. If you choose to release your testimony pursuant to FOIA, personal information, such as your phone number, would be redacted.

A. Okay, (b)(6)-4 & (b)(7)(C)-4

Q. Okay, thank you sir. We'll go ahead and get into the questions.

[COLONEL (b)(6)-2 & (b)(7)(C)-2

Q. Sir, as we noted in our pretape introduction, our purpose in interviewing you today is to gain the facts and insight into allegations of abuse related to Operation Iraqi Freedom, senior leader involvement relative to those allegations, and the operational environment in the Iraqi theater of operations at the time.

Your testimony, as head of the Coalition Provisional Authority, is particularly valuable in that you worked directly with or were aware of the actions of several senior Army officials named in Army, Department of Defense and independent reports. Further, as a senior political representative, you can offer unique perspective on the broader dynamics that impacted military operations.

As a reminder, we can discuss matters up to and including Secret. At the end of the interview we'll ask you to indicate if any of our discussions were classified. Part of our task is to gain an understanding of the operational environment surrounding the stand-up and operation of CJTF-7. We'll address that first and then (b)(6)-2 & (b)(7)(C)-2 will ask you for your response to some of the findings cited in the report.

Sir, it is certainly not required but prior to beginning our prepared questions would you care to make any opening remarks?

A. No.

Q. Sir, I apologize, some of these lead-ins to these questions are quite lengthy but we're trying to explain the context we learned and then ask for some comments.

A. Okay.

Q. Early in 2003 there was a conscious shift from the previous relationship of ORHA, under General Garner, essentially, being subordinate to CENTCOM, military privacy, and civilian subordination, if you will, to the establishment of the CPA with civilian lead and CJTF-7 and military subordination. Today we've evolved into the interim Iraqi authority working with Multi-National Force Iraq. This discussion of a shift from the military dimension to the civilian and political dimension isn't recognized very well in most of the reports that have been written. Sir, can you comment on this condition as it applied to conditions in Iraq in May or June of 2003 in the stand-up of the CPA and CJTF-7?

A. Well of course I wasn't involved in the government until I came back to do this job so I don't' really have, other than what I've sort of heard and read, I don't have much background on how the ORHA thing got set up. My understanding is that the plan all along was for General Garner to stay only a short period of time, I think through June 15th, and the administration wanted somebody with more political background to come in and take over when we became a CPA and that's how I got selected but -- and then I got there on May 12th. I don't know what more there is to say. I don't have any particular insights into it.

Q. Okay sir. The question was basically what we've heard from some senior officials was the deliberate change in focus moving from primarily military effort into more recognizing the civilian and political leadership effort that was going to be required so ----

A. Well, you know, it figures. I mean, the kinetic phase of the war was over.

Q. Okay. Sir, many of the reports and testimony cite the challenges that CJTF-7 had regarding manning levels sometimes reported to be as low as 30 percent and ultimately no higher than 70. We've also heard the CPA had similar challenges with regard to manning and with limited capacity external to Baghdad. In addition to that there was a lack of Iraqi capacity. CJTF-7 in military terms was in direct support of the CPA. General Sanchez, General Fast and others were told to spend as much as 50 percent of their efforts in direct support of the CPA. Some described this degree of support as out of necessity due to CPA resource levels and was an additional burden on an under resourced CJTF-7. However, we're also told that this close linkage between CPA and CJTF-7 was a deliberate realization on the part of General Sanchez, that no military action was without political context, and that the political and military arms needed to operate in concert. Sir, could you comment for us on the support relationship between CJTF-7 and CPA?

A. Well, I think you captured it. I mean, obviously when we moved into the post-war period, it was important to have political and military coordination because the military was, at least for the first 3 or 4 months, the major presence we had out in the province and particularly outside of Baghdad because we did not have CPA staff except for a few places in the provincial capital. So the military was operating, outside of Baghdad in particular, in circumstances that required them to have some sense of the political importance of anything they did, whether it was reconstruction or their ongoing operations against the insurgency. So I think -- both Sanchez and I felt that it was important to have a close relationship at the top of the organization and indeed Sanchez moved his office and was co-located down in the palace and basically my first scheduled meeting everyday was a meeting with Sanchez and his top people to go over the overnight developments in the military field and for me and my colleagues to give him a chance to hear about what we were doing on the political side he attended everyday, then, a subsequent large senior staff meeting. So we tried to find -- I knew he had a lot of tiger teams combined, U.S. -- combined civilian/military tiger teams to deal with ongoing problems. So I think we recognized at the outset we had to have very close relations with the military and I think they -- I mean you have to -- Sanchez, I think, he understood that too.

Q. Okay sir, thank you. Sir, from the military's perspective, planning for phase IV, termed Stability and Support Operations, which began around June 2000, anticipated a permissive environment ----

A. 2003.

Q. ---- 2003, thank you sir -- that would support SASO versus the insurgency that ultimately developed. From your perspective sir, and trying to avoid hindsight, was that a reasonable judgment at the time or were other less favorable conditions considered?

A. No I think that was a reasonable judgment. The insurgency didn't really -- first of all the terrorism didn't start on a major scale until August with the attacks on the Jordanian embassy and then the U.N. mission and then in Najif at the end of August and I have a vague memory of briefings from CJTF-7 and CENTCOM in the May/June maybe July timeframe, it's a little vague to me, that suggested that they did not at that time see a major problem with an ongoing insurgency. I think that really didn't develop until late summer. So to answer your question; the assumption seemed valid, I think, based on what they knew.

Q. All right sir. Thank you sir. Sir, when the insurgency did become more apparent in August or September 2003, to what extent did General Sanchez, as commander of CJTF-7 and his leadership, recognize its development and adjust?

A. That's harder to answer simply because I have -- I would have to go back and try to think about particular meetings. See I'm even a little vague, the way you phrased the question, as to when it became apparent to us but certainly by the end of August, it was clear we had a major terrorist problem because of the bombings and I ----

Q. Sir, to help clarify my question; the general criticism against General Sanchez that several have made is that he was slow to recognize this growing insurgency and to take appropriate measures.

A. See that's a -- I don't have any way to judge that. I'm not a military expert and I don't have any memory of anybody coming to me and saying, you know, they should be catching on -- I just don't have any -- I don't have anything to add to that.

Q. All right, sir. Sir, as General Sanchez became aware of this growing insurgency in theater, to what extent was the leadership above General Sanchez, and by that I would mean CENTCOM, DoD, Washington, in agreement with this assessment of a growing insurgency? Some have suggested that there was a time lag between those in the Iraqi theater coming to this realization versus Washington's acceptance of that same realization. Sir, would you have any comments on that?

A. I just don't have any -- I don't have any direct memory of that. I certainly talked regularly to Abizaid and was on the phone almost daily with the Secretary of Defense and his top people at the -- you know, the Joint Chiefs but I don't remember -- I have no memory of anybody saying that there was a difference between the perceptions. I just don't.

Q. Okay sir.

A. There may have been a lot of talk in military channels that I wasn't aware of but I didn't hear it.

Q. All right sir. Thank you. Sir, General Sanchez was criticized in several reports for not responding adequately to changing conditions and that's specific to the insurgency. One of the senior leaders we spoke with cautioned against viewing him as the "center of the universe" in these matters. His position was that General Sanchez did not completely control his own destiny or that of his joint task force. There were political decisions and external factors that shaped the development of military and security conditions. We're not revisiting these decisions but two that were provided as examples were the stand-down in Iraqi Army and the ultimate levels of de-Ba'athification; these were cited as examples of political decisions that had military affects that CJTF-7 had to contend with. Other external factors; the Shi'a uprisings, Fallujah uprisings, then Al Quaeda linking this situation in Iraq to a wider global insurgency and some describe it as the rise of militant Islam in the broader region. So in your opinion, sir, can you tell us how readily did General Sanchez anticipate and react to changing external factors that impacted his military domain?

A. Well you've got 30 or 40 points in that question. I don't even know where to begin. You jumped all the way forward to Fallujah, which I presume you mean April in Fallujah though we had problems in Fallujah in April '03; we had problems in Fallujah in October. Fallujah was a perpetual problem. It still is. So I don't know how to -- I don't even know how to begin to grasp that question ----

Q. My apologies, sir ----

A. ---- it sounds like it's just a -----

Q. ---- for overreaching on that one -----

A. Yeah, I don't know where to begin.

Q. In the context that General Sanchez had to react, his situation was not of his own making in all cases. He had to react to the environment he was in.

A. Yeah that's true.

Q. Again, we're back on the general criticism, he did not respond adequately to changing conditions. So ----

A. I don't' have a view on that. I'm sorry.

Q. You don't?

A. I just -- you've thrown everything in the kitchen sink in there. I have no -- it is certainly true to say no commander has total control over his environment but that's self evident any more than I had total control. Therefore what? So what? That's stating the obvious. The President of the United States doesn't have total control over the environment.

Q. All right, sir. We'll leave it at that then. Sir, the final question I have has to do with operational intelligence.

A. Yeah.

Q. Evidence indicated that military intelligence at the tactical level divisions in the local area was fairly strong initially but that General Sanchez quickly realized the need for greater operational intelligence fusion in order to understand and precisely target the operational structure of the insurgency. That task was assigned to Major General Barbara Fast --

A. Right.

Q. ---- the CJ2. Sir, can you comment on her role in fusing the various military and national intelligence assets and provide us your judgment as to the impact of her efforts?

A. Well this actually came about as a result of my concerns in July and then particularly in August after the bombing started that we didn't have -- our intelligence was not focused on the right target. My concern started with the station because the station was spending most of its time looking for WMD and had most of its management staff focused on managing a very large -- this Iraqi Survey Group thing and it struck me that it was not very likely that any of our Soldiers were going to get killed by WMD but they were getting killed by insurgents and that our intelligence needed to be brought to bear on the target. So I directed the establishment, I think in August, of an intelligence fusion cell, which was to pull together -- I think it was after the U.N. bombing. It was somewhere in the middle of August -- was to pull together all of the intelligence, not just the military intelligence but the station, DIA -- everybody that was operating there in one place and get it focused on the insurgency. Now I can't remember if Fast was already there or if she arrived -- I don't remember the sequence but she, in any case, was put in charge of it as you point out and as your question points out and I believe it was a significant improvement in the approach to the intelligence. In fact, at several points people in Washington told me they wished that Washington had been able to coordinate as well as we were in the field -- our efforts in intelligence. I visited the fusion cell a number of times over the next 8 or 9 months while I was there and my impression was that they had done a very good job of pulling this thing together. Now Fast was overall responsible so I guess you'd say she had done a very good job. That would be my impression. It's not to say that our intelligence was satisfactory. I don't think it ever was because we just weren't getting enough human intelligence on the insurgents, which was one of the reasons that I put a strong emphasis on standing up an Iraqi intelligence service, which we started in January.

(b)(6)-2 & (b)(7)(C)-2 Sir, what do you attribute that to?

A. Attribute what to?

(b)(6)-2 & (b)(7)(C)-2 The intelligence not being very good.

A. Well -- look, because we're not set up -- we're not organized to get that kind of intelligence. We were in a situation that the United States government had not faced for 50 years. We were occupying a country and the only good intelligence on these things is human intelligence. The technical stuff is essentially irrelevant about a guy who's running out with an RPG over his shoulder and you have to have people who are going to tell you where those cells are and that means you need Iraqis to cooperate. Most -- I don't' know what percent, probably 99.9 percent of the military people on the ground don't speak Arabic and if they speak Arabic they are not going to pass themselves off as Iraqis and the station was focused on WMD. So it's a very hard target. It's not an easy target to get them to cooperate -- to get the intelligence from the people and I think in the end it's like just about everything in Iraq; in the end the Iraqis are going to have to do it. It's going to have to be an Iraqi intelligence service, it's eventually going to have to be an Iraqi security forces that secure their country. So I think it's a very difficult target and I don't -- and it's one that -- I mean we just hadn't done it for 50 years.

(b)(6)-2 & (b)(7)(C)-2 Yes sir.

A. There was no institutional memory about it. We hadn't done it and we did not face, in Germany and Japan, a homegrown insurgency. The werewolves in Germany were sort of a small bear compared to what we faced in Iraq. I mean, this was something new.

(b)(6)-2 & (b)(7)(C)-2 Yes sir. Was any of the intelligence that was brought out as a result of interrogations at Abu Ghraib -- was that intelligence useful or did it sort of fall into the same ----

A. I -- here I don't have direct knowledge because I didn't read regularly the reports. The impression I got and I got it sort of over a period of time and I couldn't tell you exactly when or where but the impression I got was that we were not -- and I got -- I think it was the Secretary of Defense who first put me on to it in a discussion we had where he was pressing to say, 'What are we getting out of these interrogations,' and the impression I got was that we had a series of people interviewing individual prisoners and reporting, sort of, up the chain and there was no real effort to kind of pull it all together and say, 'Well what has it taught us.' Now I don't know where -- whether that was supposed to have been done back here in Washington or where, I don't know, but I certainly had the impression that we were not -- mind you, I did not see the interrogation report so I have no independent judgment on it. I noted -- I had to approve the release of detainees from time to time and there was a form -- I think these were mostly people that the ISG had been talking to. It was a form that whoever wanted to release him had to fill out and I remember there was a square on them that said, "Has this prisoner produced good intelligence," and then there would be a list of IRs that had been filed. You know, there would be 25 IRs there but that sort of struck me as quantitative and not qualitative. I mean, did the prisoner actually tell us something useful or did the interrogator just meet his monthly quota of IRs that he was filing and again, I don't know the answer. The impression I got from talking to people was that this must have been a massive amount of material that was not getting collated in a useful fashion. Now it's quite possible that the people were not telling us anything -- did not have anything useful to say. I mean, there are two problems; was there anything useful to say and was it collected and if so -- if the answer to that is yes, was it then adequately assessed somewhere back here or in a fusion cell or -- I mean, they are two separate questions. I don't know the answer to that because I didn't read the stuff.

(b)(6)-2 & (b)(7)(C)-2 Right.

Q. Sir, any remaining thoughts that you'd like to offer us on -- specific to General Sanchez or General Fast as to their involvement directly with you and ----

A. Well I had, I felt, good working relations with both of them. I thought they were good officers. I admired them both for their patriotism and their skills. I liked working with them. I had no particular problems with either of them.

Q. All right, sir. That completes the questions I had at this point. Milli is going to go through some of the findings in the various reports and ask for your response.

A. Okay.

(b)(6)-2 & (b)(7)(C)-2

Q. Sir, what I'll do is just I'll quote you a couple of the findings that came out of the Kern and/or Schlesinger report and then ask you a couple of questions just to get your comments on them.

A. Okay.

Q. The first finding, and this came out of both the Kern and Schlesinger reports, "The Commander and Deputy Commander CJTF-7 failed to ensure proper staff oversight of detention and interrogation operations," and of course that's referring to General Sanchez and Major General Wojdakowski. The second finding that relates to that came out of the Kern report, "There was a lack of clear command and control of detainee operations at the CJTF-7 level. Lack of a single CJTF-7 staff proponent for detention and interrogation operations resulted in no individual staff member focused on these operations." So the issue that we're looking at is what degree of oversight was provided by General Sanchez as well as his deputy and other staff members with respect to detention and interrogation operations, and then just to back up a little bit, sir, can you provide us with some background on the decision to select Abu Ghraib as the central confinement facility in the first place?

A. Yeah. On Abu Ghraib the problem we had when we got there was that all 151 prisons in the country had been looted or burned or destroyed and some -- the jails, the prisons, everything and my advisor -- senior advisor, I think, in justice, (b)(6)-2 & (b)(7)(C)-2 at that time, (b)(6)-2 & (b)(7)(C)-2, came to me at some point in, must have been, early June saying that we had to have a place to put prisoners and the only place that was left standing that could be used was Abu Ghraib and I said, after I talked to my political guys, I said, 'Boy that doesn't sound like a very good idea because it's so reputed to be so -- it has such a connotation.' So I instructed him to go out and look again and they went and surveyed all of the various places where you could do a prison and came back and concluded there was no even medium security facility anywhere in the country other than Abu Ghraib and Abu Ghraib was the only maximum security and there was one block, as I recall, that was still maximum security. So I told Rumsfeld, it must have been somewhere in the middle of June, that I had agreed we had to use Abu Ghraib. I said that -- on two conditions. First, we will fence off the part where the executions took place and turn it into a museum and secondly, we will immediately, when we go for more money for our supplemental, we'll ask for money to build new prisons so we don't have to -- we're not tied to Abu Ghraib. So that's basically the background. It was ----

Q. Okay.

A. ---- politically very difficult decision but one that I felt we had to take. Am I supposed to comment on the other two points?

Q. No, I'll keep asking you questions here, sir. And again, a little bit more on background; can you provide a general description of the plan to eventually transition from a military-run detention system to one run by the Iraqi criminal justice system? What the timeframe was and what the different milestones were planned to be to the best of your recollection?

A. Well I'd have to remember it. I set up -- well if you look at the Iraqi justice system we had a number of problems. First we didn't have prisons. Second, we didn't have courts. Third we didn't have judges. We started by scrubbing all the judges. I set up a judicial review commission or counsel or something. I don't remember exactly what it's called, which was composed of an American, a Brit and I think three Iraqis, but I could be wrong, who reviewed all of the, I think it was, 860 judges that were in the Iraqi court system to see if they were [unknown word, counter 086] or criminals or were they corrupt and to decide which ones we could keep so we had a system to get the judges. We set up a central criminal court, and again I think it was as early as June but you can look in the orders. It was one of the orders I signed -- that was established to begin to deal with major crime. So we had a mechanism to actually bring people to trial in an Iraqi court system, not an American -- these are Iraqi courts, with Iraqi judges and we had to address the prison question which was, in many ways, the hardest question because it involved construction. I was told that replacing Abu Ghraib would take about 3 years to build a maximum security prison. Well we couldn't wait 3 years obviously and I think most of that -- I also then did a number of amendments to the criminal court -- the Criminal Code -- the 1969 Criminal Code. I outlawed torture, I gave them right of self defense, the right to remain silent; a whole bunch of sort of modern western legal processes and again I think it was all done in early June if I remember correctly so we -- I mean to answer your question, the timeline was very early trying to get moving. Now there was still always the question of how do we get these people out of our physical custody into somebody else's custody and that was a much more complicated problem because again, first of all there was no place where you could take these people. And you know one of the things -- I haven't read all of these reports obviously but one of the things, anyway, the press reporting about the report seems to leave out is people have to remember Saddam let all of his hardened criminals out of jail. We never knew -- 80 to 100,000 of these people around. We had a lot of really bad -- just plain bad people; rapists, murderers, convicted robbers that we were also gathering up and my frustration with the process, which I started expressing certainly not later than July was that we didn't seem to have a very good system for triage on getting these people sorted so that the criminal criminals could be shunted off in one direction and the security detainees as I remember they called them could be taken in another direction, and I pressed very hard to get a better handle on that already in July -- July and August.

Q. And did that eventually start to happen, sir?

A. Yes it did.

Q. Okay.

A. As a result of that we got -- well there were three problems. We didn't have good lists of who we had and we finally got that done and I think the list started to get published in about the end of September. My memory may be wrong about the date -- somewhere in there September/October, because one of the problems we had from Iraqis was Iraqis would come and say, you know, 'you picked up my brother, Abdul Mohammad, and I don't know where he is,' and you know, whatever, and we didn't know where he was and it was a very complicated problem because as I remember the initial reports were filed by, you know, probably some Captain somewhere who was the guy who ran the sweep and he picked up Abdul Mohammad, they bring him in, they say what's your name. He may or may not give his correct name and then there's the second question; how do you -- is his first name Abdul or -- I mean, is it Achmed Mohammed or Mohammed Achmed? So which way do we enter it into the little thing? Of course you're transliterating Arabic into English. You can write Mohammed about seven different ways so it was a major problem and a major political problem that we couldn't say where these people were. Secondly, we needed to get them access to lawyers; in turn we need to have family visits and we got that pretty well started by end of September if I remember correctly and it did relate a little bit to the security detainee issue in the sense that as I looked at it and my deputy, Ambassador McManaway, spent more time on this but in order to get released, if I remember correctly, MI had to release -- you had a MI hold on a lot of these people and I came to believe that the military intelligence people would never release anybody, quite understandably from their point of view because they'd say, 'Well, I've talked to her for a month and I didn't really get anything out of her but there's a faint chance that when I talk to him he's gonna say, oh you let go a real killer, you know, you shouldn't have let her go.' So the MI -- kind of -- there's a structural obstacle to getting these people out in MI and I raised it with both Sanchez and Fast and in fact we got the MI -- we got -- again the timeframe, I think towards September or something, where MI -- you couldn't just have a perpetual MI hold. They had to have some reason -- I don't remember the details but -- so this whole -- to me the problem of the detainees, at least in this phase of the thing, was just not knowing who we had, being able to get the lists out to the public, being sure they had access to lawyers, and had family visits.

Q. All right, sir. Sir, the next question regards any oversight you may have observed by General Sanchez regarding detention operations and I'm going to split out detention and interrogation operations just to make it easier. Like the findings said earlier, the allegation is that General Sanchez and his staff failed to ensure proper oversight of detention operations. Can you provide some examples or anything that you saw or were aware of that would indicate what type of oversight General Sanchez did provide; any examples of regular meetings, regular reports that may have been provided to you or that you were aware of --

A. Yeah -- no I had pretty regular meetings with him because it was a matter of concern to me and I would have to look at my schedule to get the dates. I don't remember but ----

Q. In general is fine.

A. No I had fairly regular -- and I had, as well, I had my deputy, Clay McManaway, and my military aide, (b)(6)-2 & (b)(7)(C)-2 who followed this fairly closely on my behalf. I do remember a number of Power Point presentations by Sanchez and Marc Warren, who was his JAG guy periodically. I mean I -- once a month? Yeah, probably.

Q. All right, sir. Did you ever have an opportunity to walk through Abu Ghraib after ----

A. Yes I did.

Q. ---- do you recall roughly how many times and ----

A. I went there two or three times.

Q. All right, sir.

A. I went there and the brigadier was there, the woman whose name I ----

Q. General Karpinski?

A. Yeah, the Polish name. Yeah, yeah. I went here in the summer and then I went there again and I took (b)(6)-3 & (b)(7)(C)-3 out there because (b)(6)-3 & (b)(7)(C)-3 wanted to see it. He was the U.N. guy and I went again -- I probably went there three times.

Q. And what did you observe sir? Was it chaotic, was it ----

A. No ----

Q. ---- was it a "rat hole" as some reports have described it ----

A. No, not when I visited it, of course Cropper was still open then so we hadn't moved a lot of the prisoners down. No, in fact on the contrary, we were in the process -- the first visit I made they still had I want to say several hundred -- four or five hundred prisoners under canvas out there which is pretty tough because it was summer. On the other hand, all of our Soldiers were living under canvas too so okay. The -- we were in the process of rebuilding one of the prison blocks and they showed me -- I remember it made a big impression on me. They showed me a room probably two-thirds the size of this room, maybe smaller -- a cell maybe half the size of this room where they had built bunks, there were four double bunks so they were going to put eight prisoners in there and under Saddam they had

52 people there. It wasn't even enough room to sit and so the impression -- on the -- I mean, the impression I got was at least in terms of the physical plans we had and that I saw it again a couple other times, it was light years better than what Saddam had done and I didn't see any sign of the chaos or ---- I mean you had 400 people living under canvas.

Q. Right but in your view it was no worse than Soldiers living in what were similar conditions?

A. No. Well, everybody was suffering in the summer. I mean the temperature runs to 115/125 degrees there. It's hot.

Q. Yes sir.

A. It's not a pleasant thing to be but after all our Soldiers were living under the canvas too.

Q. Right. Sir, one of the things that I have heard about in our previous interviews were these detention summits that were apparently held, I think there were two, during the fall of 2003 that were orchestrated by General Wojdakowski that included some elements of the CPA. Do you know anything about those?

A. I don't know them by that term but it's almost -- it would not be very surprising if either Ambassador McManaway, my deputy, or Ambassador Kennedy, who was my chief of staff, or Colonel (b)(6)-2 & (b)(7)(C)-2 were to have gone to those. As I said, I got periodically briefed on what was going on sometimes by them, sometimes by Sanchez and Fast. I don't remember those terms.

Q. And were you periodically briefed on detainee population numbers?

A. Yes.

Q. Okay and so as that population rose was there any indication that CJTF-7 was taking action to mitigate the effects of the rise in population ----

A. Well my ----

Q. What were some of their courses of action, I guess?

A. Well the thing that I was prodding them to do was, as I said was, get the triage done more quickly so that you can decide which ones were criminals and we can turn them over to

Iraqis. Secondly, on the security detainees I kept pressing to be sure we were meeting our obligations under both international law and then under Sanchez' guidelines for how quickly they being reviewed and I don't remember all the details; there was a 72-hour thing and there was a -- and then it was a 6-day -- I don't remember. There were a lot. The Geneva Convention had certain requirements for how quickly they were reviewed and then how often they were re-reviewed -- my pressure was mostly on trying to get the numbers down as -- because it was a political problem. This is a highly tribal society, and family society, and clan society and when you pick up one person and hold them for 38 days, and his family doesn't know where he is and then you let him go it says well you probably shouldn't have held him for 38 days and you made 10 enemies out there. People say, 'why did they hold on to old Achmed for 38 days?' and so my pressure always was, we need to be sure we hang on to the people who are a real danger to us and to our Soldiers but we also need to get flushing the rest, but I don't have any specifics. I put a lot of pressure on them.

Q. Okay sir.

A. -- starting in the summer.

Q. Okay sir. And was there an element of your staff, sir, that worked regularly with CJTF-7 with respect to detention operations?

A. Yeah it was -- is the two people I mentioned; Ambassador McManaway, who was my deputy until he left. He left for health reasons in early November and Colonel (b)(6)-2 & (b)(7)(C)-2 my military aide.

Q. Okay sir. All right sir, shifting away now from detention operations, let's talk a little bit about oversight of interrogation operations and again, similar question; can you comment on anything that you observed with respect to General Sanchez' and also General Fast's oversight specifically of interrogation operations; not so much intelligence but ----

A. I have no insight into that.

Q. No regular reports provided to you ----

A. No.

Q. ---- regarding -- alright sir. I understand that General Fast participated in some intelligence updates that were provided, I believe, as a part of the morning brief that you participated in.

A. Yeah.

Q. What were generally some of the things that she discussed?

A. Well it would mostly be either intelligence or information about an operation that just happened in the last 24 hours, if we had done something and what had we learned from it or she might sometimes say that she was concerned about some trend in intelligence that she was seeing from her people and sometimes she'd just bring pictures to show me of a target. I mean it was all over the -- I mean it was every where, it was everything -- nothing -- I don't remember anything -- there's no one thing that sort of strikes me. Before we did a significant operations Sanchez would often bring her along and she'd bring the overhead and show us what we were going to do about a mosque or take down a place or something but it was pretty much tactical.

Q. All right, sir. Sir, talking a little bit about the type of support that was provided by CJTF-7 to the CPA; did CJTF-7 actually physically provide Soldiers/officers to come work on the CPA staff to help flesh that out or --

A. Yeah, there were -- we had a lot of military on our staff who were effectively seconded. I don't know what the technical term was and the military terms but yeah, they were effectively working for -- I don't know how many but hundreds I'm sure.

Q. And the reason I ask, sir, is we're trying to get a feel for the effect that the many missions that CJTF-7 had and how that may have related to oversight or lack thereof with respects to detention and interrogation operations. So I'm just trying to get a feel for the volume of people and the amount of their time spent on a daily basis supporting CPA functions as opposed to purely military operations ----

A. I just don't have a feel for that. You'd have to ask the military ----

Q. Okay.

A. I don't know. There certainly was a very high degree of integration, there's no question. A lot of military ----

Q. All right, sir. That's helpful and I understand that the Major General Galinetti, the Chief of Staff of CJTF-7, worked -- spent most of his time at CPA ----

A. He probably did. I mean, you'd have to ask him. He certainly was around a lot and he was -- whenever Sanchez couldn't come to the morning meeting he came. I mean, yeah, he was certainly heavily engaged.

Q. Okay sir, good. All right, sir ----

A. He was actually a brigadier when he started there.

Q. Oh okay.

A. We got him promoted, the same with Fast ----

Q. Right, yes sir.

A. ---- she got it.

Q. All right, sir, stepping away then from interrogation operations and this again refers to General Fast and OGAs. What guidance, if any were you aware that was provided to General Fast concerning CJTF-7's cooperations with OGAs and specifically the CIA concerning the use of Abu Ghraib facilities?

A. I'm not aware of any ----

Q. Okay whether she was provided any guidance?

A. I didn't give her any and I don't know where -- it would have come from military commands I guess.

Q. All right, sir. And who would have been her primary point of contact in the CIA at that time, do you recall?

A. It would have been the station chief, I guess.

Q. Station chief, okay. All right, sir, the next finding -- and I've actually combined several findings. Several reports have commented on how under resourced, both in terms of equipment and personnel, CJTF-7 was during the timeframe that we're talking about, specifically the fall and winter of 2003. General Sanchez and General Wojdakowski have been criticized for not requesting additional forces, in particular MPs. Sir, do you have any observations on how CJTF-7 personnel manning levels may have affected detention and interrogation operations at Abu Ghraib. I don't know if you were ----

A. I can't make any connection. I just don't -- I'm not an expert. I certainly felt, early on, we needed more MPs there. In fact, I asked Abizaid for more MPs and he promised me 4,000 the first week I was there in May and I remember at some point somebody telling me, I think it was Sanchez. It might have been Abizaid -- that -- it was probably in that fall timeframe, that we had something like 80 or 85 percent of the MPs in the entire Army there so I don't know what more -- I mean you can't very well ask to have 100 percent.

Q. Yes sir.

A. I do remember raising the question with one or the other of the two and hearing this back and I just said, 'well, you know'. He said something like 80 percent of the civil affairs officers in the Army there. I mean there was a limit to how much more you could do.

Q. Right sir. Did you ever get those additional 4,000 MPs?

A. Yeah, I think we did but that was way back in June. That was way back in the beginning.

Q. And then ----

A. And -- I mean, the MPs started -- became part of the ongoing rotation. What the manning was by the fall, I couldn't say.

Q. All right sir, but it was your understanding as well that the bulk of the Army's MPs were already in Iraq ----

A. Certainly by the -- again, don't quote me on the date. I mean somewhere in the fall I heard that we had something like 80 or 85 percent of the Army's entire manning of MPs.

Q. All right sir.

A. I do remember that.

Q. All right, sir, that answered my question there. What I'm going to do now, sir, is ask for your "legal" opinion. I'm going to go over the elements in Article 92 of the UCMJ, Uniformed Code of Military Justice, regarding dereliction of duty and as it relates to General Sanchez, Major General Wojdakowski, and Major General Fast and just a real quick review for the record; Article 92 of the UCMJ stated that "dereliction in the performance of one's duties consisted of three elements; a person had certain duties, the person knew or reasonably should have known of those duties," and then the important part, "the person was derelict in the performance of those duties through willfulness, negligence or culpable inefficiency. 'Willfully' meant intentionally, 'negligently' meant an act or omission of a person who was under a duty to use due care, which exhibited a lack of that degree of care, which a reasonably prudent person would have exercised under the same or similar circumstances." And then "culpable inefficiency was inefficiency for which there was no reasonable or just excuse." So sir, here's where I ask for your legal opinion; in your view was Lieutenant General Sanchez derelict in his duty with respect to oversight of detention and interrogation operations based on ----

A. I have no judgment on that ----

Q. All right, sir. Similar then with General Wojdakowski and General ----

A. I just don't know enough about the details to give you an opinion.

Q. Okay sir, that's fine.

[Tape 1, side A ended. Side B picks up mid-question.]

Q. ---- Any follow up questions?

COL (b)(6)-2 & (b)(7)(C)-2 No sir. That completes our prepared questions. Were there any other issues that you think are pertinent to our discussion that we may not have raised?

A. No. I guess I would just make the general political point that I made earlier that this was a very complicated environment for both the military and the civilians and one for which there was no recent American experience really, certainly not on this scale, for 50 years and as I said, even there,

there's a big difference because we didn't face insurgencies in Germany and Japan and I think it was difficult for everybody to try to figure out how to make this thing work; this civil military approach to an occupation and clearly the detention problem was there -- my knowledge of the detention problem, until the Abu Ghraib stuff became public in January, was -- my knowledge was limited to the problem and was focused on the problem of the numbers of people and this problem about flushing the system out, that was my main concern. I didn't have any insight into the fact there may have been abuses taking place. That only came in January and -- but -- so I would certainly say that my staff and I -- and we worked it. I didn't have any sense of resistance from Sanchez and his staff on this matter. Whether they had enough people, that I don't know. You'll have to ask them. They may have been undermanned. I don't know. That never was brought up to me as a problem. I mean, I think everybody was working pretty hard to try and figure this thing out and then something obviously went seriously wrong out at Abu Ghraib.

Q. Sir, do you -- and you may not know the answer to this but one of the arguments that has been made that because the population was so high at Abu Ghraib that that may have indirectly led to the abuses. Do you see a link ----

A. I have no judgment on that.

Q. Okay sir.

A. I don't even understand conceptually why that should be but I -- no.

Q. Okay sir. All right, sir, that's all I have. [To Colonel (b)(6)-2 & (b)(7)(C)-2 do you have anything?

COL (b)(6)-2 & (b)(7)(C)-2 No. Sir, thank you very much for your time. You have been very helpful with your insights and we appreciate it.

Q. Sir, I'll go ahead and do the formal read-out at this point.

A. Oh right, yeah.

Q. And then we'll get on our way. Sir, is there anyone else that you think we should talk to?

A. Well you might talk to Colonel [redacted]. I mean, if you haven't talked to him.

Q. Is he Army sir?

A. Air Force.

Q. Air Force?

A. Yeah.

Q. Do you recall his first name, sir?

A. He's [redacted] but if you give me a minute when we finish up, I'll give you his coordinates.

Q. All right, sir.

A. He's still at Defense.

Q. All right sir.

A. He was my military aide. His name isn't [redacted] It's something like [redacted] or something like that. Anyway, I'll give you that ----

Q. All right. We'll do that afterwards when we get off tape. Anyone else, sir?

A. I would recommend my deputy, Clay McManaway, but [redacted] and I think that it's probably not a good idea to ----

Q. I'm sorry to hear that.

A. He's in the hospital.

Q. Okay.

A. You could talk to Pat Kennedy, Ambassador Patrick Kennedy who was my chief of staff. I don't know how much he was into this but he may have been involved a bit. He's currently the Deputy Ambassador at the United Nations, U.S. Mission United Nations so he's a State Department employee -- career State Department employee.

Q. Yes sir.

A. You might talk to him. I just don't remember how much he was involved in this but he certainly was around the papers going back and forth.

Q. Right. All right, sir.

A. He might have some insight.

Q. Okay sir.

A. You might try those two guys.

Q. Okay, great. Thank you, sir. I'll go ahead and do the read-out.

A. Yeah sure.

Q. We are required to protect the confidentiality of IG inquiries and the rights, privacy and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except an attorney, if you choose to consult one, without permission of the investigating officers.

Your testimony is part of an official Inspector General record. Earlier I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of these records to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

A. Yes.

Q. All right, sir. Do you have any questions?

A. No.

Q. Sir, the time is 1057 and the tape-recorded portion of this interview is concluded.

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[The foregoing testimony of **AMBASSADOR L. PAUL BREMER** was recorded by means of magnetic tape, and transcribed and certified by (b)(6)-3 & (b)(7)(C)-3 [redacted] Closed Microphone Reporter, United States Army Inspector General Agency, The Pentagon, Washington, DC 23010.]

(b)(7)(D) [redacted]

15. (U) On 21 December 2004, AMB Bremer testified to DAIG:

a. (U) It was important for the CPA and CJTF-7 to have a close relationship. For the first three or four months, the military was the major presence outside of Baghdad. LTG Sanchez moved his office and top people to the CPA HQs, and provided the CPA a briefing every morning regarding overnight developments. The meeting gave LTG Sanchez and his colleagues a chance to hear what CPA was doing on the political side. (pp. 4-5)

b. (U) The initial assumption that there would be a permissive environment in which to conduct SASO was valid at the time, based on what they knew. The insurgency did not start on a major scale until August 2003, with the attacks on the Jordanian embassy and the United Nations mission. (p. 5)

c. (U) In August 2003, he was concerned that their intelligence was not focused on the right target. The Central Intelligence Agency (CIA) station was spending most of its time looking for weapons of mass destruction (WMD). It did not strike him that it was likely that any coalition Soldiers were going to be killed by WMD, but they were getting killed by insurgents. The intelligence needed to be targeted on the insurgency. As a result, he directed the establishment of an intelligence fusion cell that brought together the intelligence capability of the military, the CIA, the Defense Intelligence Agency (DIA), etc. MG Fast was placed in charge. He visited the fusion cell several times, and it was his impression that they did a good job pulling the intelligence together. (p. 8)

d. (U) This was not to say their intelligence was good - they were not getting enough intelligence on the insurgents, which was why he emphasized standing up an Iraqi intelligence service. The CPA and CJTF-7 were not organized to get that kind of intelligence. They were in a situation not faced by the US government for over 50 years. They were occupying a country, and the only useful intelligence was HUMINT. The technical intelligence was irrelevant regarding an insurgent running around with a rocket propelled grenade (RPG). They needed people who would tell them where the insurgency cells were, and that meant they needed Iraqis who would cooperate. They had a massive amount of information that was not getting collated in a useful fashion. It was possible that the people they were talking to did not have anything useful to say. It was also possible that the information was not adequately assessed, either in Washington or in the fusion cell. (pp. 9-10)

e. (U) LTG Sanchez was a good officer, and he admired him for his patriotism and his skills. (p. 10)

f. (U) At the time the CPA was stood up in June 2003, all the prisons in the country were looted or destroyed. There was no medium security prison anywhere other than AGP, and AGP was the only maximum security prison available. After surveying all the options, he told the SecDef that they had to use AGP. Regarding the existing Iraqi justice system at the time, they did not have prisons, courts, or judges. They had to establish these, and they could not wait the three years they were told it would take to build a new maximum security prison. They worked the complicated problem of how to transfer the Iraqi prisoners out of US custody into Iraqi custody. It was key to remember that Saddam Hussein released thousands of hardened criminals into Iraqi society that the coalition later gathered up. Initially, they did not have a good system for sorting the security detainees from the criminals, and he pressed hard for a better process. The situation eventually improved. By September 2003, they were not keeping detainees on perpetual "MI hold". A reason was required to continue to detain security detainees. (pp. 11-14)

g. (U) He had regular meeting with LTG Sanchez regarding detention operations and detainee population numbers because it was a matter of concern. He (Mr. Bremer) walked through AGP several times, and it was neither chaotic nor a "rat hole." Although several hundred prisoners were living in tents at the time of his visits, so were most of the Soldiers. The prison blocks were in the process of being rebuilt, and they were a big improvement. (pp. 14-16)

h. (U) He pressed CJTF-7 to ensure they met their obligations under international law on how often they reviewed a security detainee's status. Keeping Iraqis detained for too long was a political problem, because this could potentially create enemies. (p. 17)

i. (U) The CPA had several hundred military personnel on their staff provided by CJTF-7. There was a high degree of integration with the military. The CofS, CJTF-7, was heavily engaged with the CPA. (pp. 18-19)

j. (U) He was not aware any guidance given to MG Fast regarding CJTF-7's cooperation with OGAs, specifically the CIA, and the use of AGP facilities. He guessed such guidance, if any, came from the military. (p. 19)

k. (U) They had about 80-85% of all the MPs in the entire Army in Iraq. There was a limit to how much more could be done. They couldn't ask to have 100%. (p. 20)

l. (U) Iraq was a very complicated environment for both the military and civilians, and one for which there was no recent American experience on this scale. America did not face insurgencies in Germany and Japan after World War II. It was difficult for everyone to figure out how to make this civil-military approach to an occupation work. Detention was a problem and he and the CPA staff worked it. They received no resistance from LTG Sanchez and his staff on the matter. CJTF-7 may have been under-manned, but they never raised it to him as a problem. (pp. 21-22)

m. (U) He did not see conceptually how the prison population at AGP could have contributed to the abuse. (p. 22) (EXHIBIT D-15)

(b)(7)(D)

[redacted]

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

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SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

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SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

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SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

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SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

[redacted]

SAIG (20-1b) ANNEX 3 (TESTIMONY) to DIG 05-80001

(b)(7)(D)

[redacted]

# ANNEX 4

2. (U) Allegation #1: LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations.

a. (U) Article 92 of the UCMJ stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Actual knowledge of the duties could be shown by regulation, customs of the service, or testimony of persons who held similar or superior positions. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse. (EXHIBIT B-1)

b. (U) The allegation that LTG Sanchez was derelict in the performance of his duties pertaining to detention and interrogation operations was derived from the following statements in the reports reviewed for this investigation:

(1) (U) The Jones Report:

(a) (U) The CG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations.

(b) (U) The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership.

(c) (U) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. (EXHIBIT C-25)

(2) (U) From the Kern Report:

(a) (U) There was a lack of clear command and control of detainee operations at the CJTF-7 level.

(b) (U) The ICRC's allegations of abuse at AGP were not believed, nor were they adequately investigated. There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits. (EXHIBIT C-23)

(3) (U) From the Schlesinger Report:

(a) (U) LTG Sanchez failed to ensure proper staff oversight of detention and interrogation operations.

(b) (U) LTG Sanchez should have ensured his staff dealt with the command and resource problems. He should have ensured that urgent demands were placed for appropriate support and resources through CFLCC and CENTCOM to the JCS.

(c) (U) Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(d) (U) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(e) (U) If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the CG, CJTF-7, could have set in motion the development of a more effective alternative course of action.

(f) (U) LTG Sanchez was responsible for establishing the confused command relationship at AGP. There was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE.

(g) LTG Sanchez should have taken more forceful action in November 2003 when he fully comprehended the depth of the leadership problems at AGP. His apparent attempt to mentor BG Karpinski was insufficient in a combat zone in the midst of a serious and growing insurgency.

(h) (U) There was a failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at AGP were known and under investigation as early as January 2004, but the gravity of the abuses was not conveyed up the chain of command to the SeCDeF. The Taguba report was transmitted to LTG Sanchez and the CG, CENTCOM, but the impact of the photos was not appreciated by any of these officers.

(i) (U) CJTF-7 determined that some of the detainees held in Iraq were to be categorized as unlawful combatants. Despite lacking specific authorization to operate beyond the confines of the GCs, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President of the United States and extended it in Iraq to those who were not protected as combatants under the GCs. CJTF-7 understood there was no authorization to suspend application of the GCs. CJTF-7 had no means of discriminating detainees among the various categories of those protected under the GCs and those unlawful combatants who were not. (EXHIBIT C-26)

(2) (U) Element #1: Did LTG Sanchez have duties with respect to detention and interrogation operations? **Yes.** As the CG, CJTF-7, LTG Sanchez was responsible for all CJTF-7 operations in CJTF-7's AOR. AR 600-20 stated that CDRs were responsible for everything their command did or failed to do, and that CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. The evidence established that LTG Sanchez delegated authority for detention and interrogation operations to the CDRs of the 800th MP BDE and 205th MI BDE, respectively. He assigned staff responsibility for detention operations to the C-3, who exercised staff oversight through the PM. He assigned staff responsibility for interrogation operations to the C-2, and assigned overall supervisory responsibility for the CJTF-7 staff to MG Wojdakowski as the de facto CofS. Additionally, he delegated authority to MG Wojdakowski to supervise CJTF-7's SEP BDEs, which included the 800th MP BDE and 205th MI BDE.

(3) (U) Element #2: Did LTG Sanchez know or should he have reasonably known of this duty? Yes. The evidence established that LTG Sanchez, as the CG, CJTF-7, knew and accepted his duties as the CG, CJTF-7, regarding detention and interrogation operations. Testimony was consistent among LTG Sanchez and other witnesses as to his duties as the CDR with respect to detention and interrogation operations.

c. (U) Element #3: Was LTG Sanchez derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency? **No.**

(1) (U) **With respect to providing proper oversight of detention and interrogation operations:** Both the Jones and Schlesinger Reports stated that

LTG Sanchez failed to ensure proper staff oversight of detention and interrogation operations. The Jones Report stated the TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff and a lack of intrusive, aggressive oversight by the CJTF-7 leadership. The Kern Report stated there was a lack of clear command and control at the CJTF-7 level. The Schlesinger Report stated that CDRs and their staffs at various levels failed in their duties, and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(a) (U) AR 600-20 stated that CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. The evidence established that LTG Sanchez properly provided oversight of those SEP BDEs and elements of the CJTF-7 staff with responsibility for detention and interrogation operations. Through MG Wojdakowski, LTG Sanchez established regular procedures by which he provided oversight of the SEP BDEs, regardless of whether the units were OPCON or TACON to CJTF-7. Testimony indicated MG Wojdakowski provided frequent guidance and mentoring to the CDRs of both the 205th MI BDE and 800th MP BDE. (b)(7)(D) (b)(7)(D) (b)(7)(D) BG Karpinski indicated she had conversations with MG Wojdakowski almost daily regarding her concerns about personnel and force protection at AGP. Testimony established that MG Wojdakowski provided her substantial guidance and assistance within CJTF-7's authority and resourcing level while holding her responsible for matters within her control. The CJTF-7 leadership provided routine oversight of the SEP BDEs through a variety of mechanisms. MG Wojdakowski held thrice-weekly TACSAT updates with the SEP BDE CDRs, which kept him and LTG Sanchez abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Both the 205th MI BDE and the 800th MP BDE participated in these updates. Monthly LRRs were held in which the CDRs provided updates on their materiel readiness, resource, and life support issues. As these SEP BDE CDRs planned and executed missions, MG Wojdakowski appropriately required that they rehearse and outline their plans to him.

(b) (U) (U) MG Wojdakowski hosted two CJTF-7 detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the

CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the Divisions, the 205th MI BDE, and the 800th MP BDE. AMB Bremer and the CPA had a legitimate political interest for CJTF-7 to expeditiously identify and release eligible civilian detainees back into the populace in order to reduce civil tensions. LTG Sanchez and CJTF-7 had a legitimate military interest to identify, detain, and interrogate persons identified to have intelligence value. Detention summits were a means to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort.

(c) (U) As the de facto CofS, MG Wojdakowski properly managed multiple staff activities pertaining to detention and interrogation operations on a regular, systemic basis. MG Wojdakowski provided oversight of the CJTF-7 staff by synchronizing the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. LNOs from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the 800th MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. While he was not personally involved in the execution of interrogation operations, MG Wojdakowski provided resources in terms of equipment, supplies, and contracting for the interrogation mission, and received regular updates from MG Fast and COL Pappas. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Additionally, CJTF-7 published several FRAGOs that addressed detention operations and the treatment of detainees.

(d) (U) In addition to establishing oversight of the SEP BDEs and staff through MG Wojdakowski, the evidence indicated that LTG Sanchez was also directly involved in providing such oversight. (b)(7)(D) (b)(7)(D) (b)(7)(D) LTG Sanchez visited AGP several times as part of his effort to periodically visit his units. He met personally with the interrogators at AGP to emphasize the limits of their interrogation authorities. He provided considerable guidance on interrogation operations directly to COL Pappas, and in November 2003, he directed COL Pappas to move to AGP to ensure more command oversight of the interrogation operation. LTG Sanchez had frequent interaction with BG Karpinski, and as a result of one of their meetings, directed that AGP become an enduring base, and thus receive higher priority for resources. The evidence indicated that both LTG Sanchez and MG Wojdakowski provided oversight of the 800th MP BDE, a TACON unit, in a manner similar to the oversight provided to CJTF-7's OPCON or assigned units.

(e) (U) The evidence established that LTG Sanchez recognized and addressed the challenges inherent in re-establishing an Iraqi national prison system while concurrently identifying, detaining and interrogating persons of intelligence value. He pro-actively sought assistance and additional resources to address shortfalls in both the detention and interrogation operation. In the summer of 2003, LTG Sanchez requested assistance that resulted in the Ryder visit in October 2003. LTG Sanchez was personally briefed by MG Ryder on the results of his detention operations assessment, and he directed the implementation MG Ryder's recommendations. LTG Sanchez also recognized that CJTF-7's interrogation operations were not configured to produce the actionable intelligence required to fight the insurgency, and identified this as a shortfall to his chain of command. Consequently, MG Fast was sent to direct the establishment of a viable intelligence architecture. In response to the requirement to develop operational intelligence capabilities, MG G. Miller's assessment team provided feedback on the establishment of effective interrogation operations that could produce the intelligence needed to address the growing insurgency. MG G. Miller out-briefed LTG Sanchez personally on the results of his assessment, and later sent interrogation Tiger Teams to assist the 205th MI BDE in establishing this capacity. As such, the evidence established that LTG Sanchez was actively and personally involved in the establishment and assessment of detention and interrogation operations, and was pro-active in responding to identified shortcomings by requesting appropriate assistance.

(f) (U) AR 600-100 stated that strategic leaders established structure, allocated resources, and articulated strategic vision. As a three-star CG of a combined joint task force, LTG Sanchez properly exercised his responsibilities at the strategic level of leadership. In addition to his responsibilities commanding CJTF-7, LTG Sanchez was heavily focused on supporting the CPA, interfacing with DOD and the National Command Authority, and contributing to the effort to re-build Iraq's infrastructure. He directed MG Wojdakowski to focus on fighting the coalition's counter-insurgency fight, resourcing CJTF-7's operations, and providing strategic-level oversight of detention and interrogation operations. AR 600-100 further stated that the senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. LTG Sanchez expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive and appropriate supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, LTG Sanchez, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP.

(g) (U) Direct supervision of the MP Soldiers at AGP was the responsibility of the MP BN CDR, LTC Phillabaum, and his subordinate leaders. Prior to COL Pappas' arrival at AGP in November 2003, direct supervision of the MI Soldiers at AGP was the responsibility of LTC Jordan and subordinate MI leaders in the JIDC. AR 600-100 stated that leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The command and staff failures cited by the Schlesinger report and attributed directly to detainee abuse were failures in leadership at the brigade and battalion levels. These failures were not attributable to a lack of oversight by LTG Sanchez.

(h) (U) The evidence established that LTG Sanchez' ability to provide a higher degree of oversight was hampered by the corps staff's lack of preparation and training as a CJTF; the low manning and experience level of the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. Both testimony and reports revealed that CJTF-7 was never fully resourced in terms of personnel - in raw numbers, experience, and grade-level. The CJTF-7 staff did not undergo a BCTP normally afforded to new corps-level staffs and CDRs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. A portion of the staff, to include the CofS, moved from the Main HQs CP to co-locate with the CPA. CJTF-7's challenges were exacerbated by the slow fill and short-duration personnel rotations at the CPA attributed to various Service and CPA rotation policies. As a result, a significant portion of the already under-strength staff was devoted to assisting the CPA with the huge mission of the reconstruction of Iraq's infrastructure and internal security forces, adversely affecting LTG Sanchez' ability to provide the additional oversight cited critically in several reports.

(i) (U) In conclusion, the preponderance of the evidence indicated that LTG Sanchez provided proper oversight of detention and interrogation operations IAW Army doctrine and regulation, in a manner that could reasonably be expected considering the broad range of his and his subordinate's responsibilities and the available resources. Given the enormity of CJTF-7's mission and the lack of adequate personnel resources, LTG Sanchez properly subdivided responsibility and authority for detention and interrogation operations to the appropriate subordinate CDRs and staff. In spite of multiple responsibilities and significant resource challenges, numerous witnesses testified to efforts made by LTG Sanchez to inform, mentor, direct, resource and supervise his subordinates through a variety of mechanisms. The evidence also established that LTG Sanchez held his staff and subordinate CDRs accountable for their responsibilities, and he expected them to fully employ their own leadership and internal resources prior to asking for additional resources in a constrained environment.

(2) **With respect to the establishment of a single POC on the CJTF-7 staff to oversee both detention and interrogation operations**: The Jones Report stated that CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. The Schlesinger Report stated that LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski, and intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(a) (U) The evidence established that LTG Sanchez exercised oversight of detention and interrogation operations IAW Army doctrine and regulation. FM 101-5 stated that command included the authority and responsibility for effectively using available resources for the employment of military forces for the accomplishment of assigned missions. AR 600-20 stated that CDRs subdivided responsibility and authority and assigned portions of both to subordinate CDRs and staff members. The evidence established that command responsibility for detention and interrogation operations was executed through the CDRs of the 800th MP BDE and 205th MI BDE, respectively. FM 101-5 also stated that CDRs delegated authority to staff members to accomplish their missions. As the de facto CofS, MG Wojdakowski was LTG Sanchez' principal assistant with executive management authority for directing and supervising the CJTF-7 staff at Camp Victory. IAW Army doctrine, the C-2 was the principal staff officer responsible for MI operations; and the C-3, through the PM, was responsible for detention operations. The evidence established that staff oversight of detention and interrogation operations was appropriately executed through the C-3 and C-2.

(b) (U) Army doctrine was silent as to who should have overall responsibility for detention operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. While the desirability for a GO in charge of both operations may have been obvious in hindsight, this approach was not doctrinal. As early as November 2003, during the Ryder visit, LTG Sanchez discussed his desire for a MP GO staff principal, and instead received a colonel to serve as the PM. CJTF-7 did not have the resources to create an additional GO position, and the JMD process could not support such a position in a timely manner. Eventually, MG G. Miller was assigned DCG for Detainee Operations, CJTF-7, in April 2004. As such, the initial absence of such a position was not indicative of a lack of action on the part of LTG Sanchez, or of impropriety on his part.

(3) **(U) With respect to resourcing detention and interrogation operations:**

(a) (U) The Jones report stated the TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff and lower priority for resources needed for detention operations. The Schlesinger report stated that LTG Sanchez should have ensured his staff dealt with the command and resource problems, and should have ensured that urgent demands were placed for appropriate support and resources through CFLCC and CENTCOM to the JCS.

(b) (U) The evidence established that LTG Sanchez and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP. CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely attacked. LTG Sanchez characterized the challenging logistics posture throughout 2003 as "expeditionary logistics." In addition, much of Iraq's infrastructure, such as water treatments plants, electrical plants, and government buildings were severely damaged and looted, far beyond predictions. While the CPA and CJTF-7 hoped to leverage existing Iraqi infrastructure and institutions, the extreme level of degradation and damage became an additional inhibitor rather than a multiplier. As a direct result, Soldiers' and detainees' living conditions alike were difficult and austere throughout Iraq, to include AGP.

(c) (U) When BG Karpinski raised resourcing concerns to LTG Sanchez during his visit to AGP in October 2003, LTG Sanchez directed that AGP be declared an "enduring base." AGP was originally intended by CPA to be a temporary facility until a new prison could be built. The status of "enduring base" gave AGP a higher priority for reconstruction funds from the CPA. As a result, MG Wojdakowski directed that additional funds and engineering effort be applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. When the shortage of prisoner clothing was brought to MG Wojdakowski's attention, he directed the CJTF-7 staff to purchase additional jumpsuits. Furthermore, testimony indicated that the 800th MP BDE received support in a manner similar to that of CJTF-7's assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing by CJTF-7. Although the TACON relationship did not require CJTF-7 to provide the 800th MP BDE's logistical support, (b)(7)(D) (b)(7)(D) (b)(7)(D) There was no evidence that BG Karpinski raised critical logistics issues to the 377th TSC, the 800th MP BDE's OPCON HQs. In sum, the evidence established that LTG Sanchez and his staff were responsive to resource shortcomings that were brought to their attention, and they responded in a manner consistent with their authority and resourcing level in an "expeditionary logistics" environment.

(d) (U) The evidence further established that LTG Sanchez acted appropriately when apprised of personnel shortfalls in the 800th MP BDE. The RC had no replacement system for individual losses. The 800th MP BDE, as well as other RC units, was eroded in personnel strength due to losses by illness, injury, or demobilization requirements. The shortages were systemic RC issues and not due to lack of oversight on the part of CJTF-7. While CJTF-7 recognized these personnel shortages, they had no means to alleviate them. The theater rotation plan was the only means to significantly affect MP unit strength.

(e) (U) Although the Ryder report identified that the 800th MP BDE was under-strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining BN and company sized units to meet its mission requirements. (b)(7)(D)

(b)(7)(D)

(f) (U) Testimony indicated that up to 75% of the Army's MP assets were already in Iraq. Additional MP companies were not available, and some replacement companies for the 800th MP BDE would be ILO companies. ILO companies were non-MP units, such as field artillery batteries, who were trained to perform MP missions. The most feasible solution for the immediate shortage of MPs was the internal redistribution of the 800th MP BDE's units. The evidence indicated that upon becoming aware of BG Karpinski's personnel concerns and the lack of theater replacements, multiple leaders attempted to influence BG Karpinski to internally redistribute her own resources between detention facilities. Testimony indicated she was reluctant to move her units. BG Karpinski did bring reasonable concerns about her personnel strength to MG Wojdakowski, and he properly indicated to her that he could not help her with replacements due to the lack of a replacement system for reservists and the lack of an Army stop loss policy at the time. Both LTG Sanchez and MG Wojdakowski were aware that there were few, if any, MP units remaining in the Army available for deployment to Iraq, and in December 2004, MG Wojdakowski moved MPs from the 1st AD to AGP to relieve some of the pressure. LTG Sanchez' and his staff's actions regarding the 800th MP BDE's personnel shortages were appropriate in light of the limited resources available.

(4) **With respect to the establishment of COL Pappas as the FOB CDR at AGP**: The Schlesinger Report stated that LTG Sanchez was responsible for establishing the confused command relationship at AGP. There was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE.

(a) The evidence indicated that when force protection issues concerning AGP arose, LTG Sanchez took appropriate action. The C-3 worked battle space management and friendly unit boundary issues external to AGP to reduce instances of mortar attacks. (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D) (b)(7)(D)

(b) Although the Schlesinger Report indicated that there was no clear delineation of command responsibility between the 320th MP BN and the 205th MI BDE, COL Pappas indicated that he understood his responsibilities with respect to force protection of the FOB and that LTC Phillabaum understood that he still had the responsibility to run the detention operation. In fact, by making COL Pappas the FOB CDR, FRAGO 1108 fixed responsibility for force protection at AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO. There was no credible evidence that LTG Sanchez' designation of COL Pappas as the FOB CDR of AGP resulted in a confused relationship between the two units at the prison. LTG Sanchez took appropriate and responsible actions to enhance the protection of both Soldiers and detainees at AGP.

(4) **With respect to the ICRC Working Paper and reporting procedures**: The Kern Report stated that the ICRC's allegations of abuse were not believed, nor were they adequately investigated. There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits.

(a) The evidence established that initially, procedures for dealing with the ICRC were not specifically defined. Prior to October 2003, CJTF-7 enjoyed a good working relationship with the ICRC and worked closely with its members. Following the bombing of the ICRC compound in Baghdad in October 2003, the ICRC moved its operation to Jordan, and the previously close relationship with CJTF-7 waned due to the arrival of new ICRC personnel with whom CJTF-7 had no previous working relationship and to the long travel distance. The ICRC's visit to AGP in early October 2003 did not go well due to this loss of a routine working relationship and poor execution by the 320th MP BN. Until the procedure was changed by LTG Sanchez, the ICRC's established procedure was to provide its reports at the lowest level of command in order to preserve the confidentiality of the ICRC process. As such, the ICRC provided its Working Paper on the results of the October 2003 visits to AGP that included allegations of detainee abuse to BG Karpinski in November 2003. She provided a response to the ICRC in late December 2003.

(b) Copies of the Working Paper were made available to members of the Office of the SJA (OSJA), CJTF-7, the 205th MI BDE, the 800th MP BDE, as well as others on the CJTF-7 staff. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible based on their inquiries with personnel who spent time at the prison, and did not report or investigate them further. In December 2003, COL Warren informed LTG Sanchez of the procedural problems with the October 2003 ICRC visit. LTG Sanchez directed COL Warren to clarify ICRC visit procedures and directed that all ICRC reports would be reported out through him so that he could remain fully informed and direct corrective action as required. LTG Sanchez was not made aware of the allegations of abuse contained in the Working Paper until February 2004, after the Taguba Investigation had started. Upon being informed by COL Warren of the specifics of the allegations, LTG Sanchez ensured that the allegations were being investigated by MG Taguba. As such, the evidence established that once apprised of the ICRC procedural issues and allegations of abuse, LTG Sanchez took appropriate corrective action to ensure better procedures were established and that the allegations were properly and thoroughly investigated.

(5) **(U) With respect to developing alternative courses of action pertaining to detention operations:**

(a) (U) The Schlesinger Report stated if CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the CG, CJTF-7, could have set in motion the development of a more effective alternative course of action. AR 600-100 stated that leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating structures and programs for ensuring that procedures developed at lower levels further supported Army policies and values.

(b) (U) The evidence established that LTG Sanchez took appropriate action with respect to developing courses of action and procedures for detention operations. Testimony indicated that in the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required and recognized that expert assistance was needed. LTG Sanchez raised his concerns to higher HQs. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These assistance teams provided on-site training to units involved in the detention and interrogation mission and provided examples of applicable SOPs and policies. LTG Sanchez was briefed on and considered the teams' findings. Additionally, interrogation Tiger Teams were sent to the 205th MI BDE to assist with interrogations, and a MTT from Ft. Huachuca was sent to AGP to provide more intelligence operations training.

(c) (U) The CJTF-7 leadership directed the 800th MP BDE to move its HQs to Iraq in order to more closely supervise the detention mission for which it was responsible. Testimony indicated that the C-3 published several FRAGOs providing detention operations guidance and direction. Detention summits were held in order to assess the on-going mission, during which issues were raised and corrective action was directed. When LTG Sanchez declared AGP an enduring base in November 2003, additional resources were directed towards the improvement of AGP's facilities. The number of detainees was tracked regularly, and as capacities were reached, detainees were cross-leveled between detention facilities. LTG Sanchez was aware that additional MP units were not available, and the Army was using ILO units to replace MP companies in the ITO. As such, his decision to not initiate a request to higher HQs for additional MP forces was reasonable, and instead, BG Karpinski was encouraged to internally redistribute her own resources. Additionally, in December 2003, MPs from the 1st AD were moved to AGP to augment the MP force.

(d) (U) In conclusion, the evidence established that the detention mission in Iraq was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. LTG Sanchez' actions with respect to anticipating and developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

(6) (U) **With respect to LTG Sanchez' actions regarding BG Karpinski's leadership:** The Schlesinger Report stated that LTG Sanchez should have taken more forceful action in November 2003 when he fully comprehended the depths of the leadership problem at AGP. His apparent attempt to mentor BG Karpinski was insufficient in a combat zone in the midst of a serious and growing insurgency.

(a) (U) The evidence indicated that by November 2003, LTG Sanchez was seriously concerned about the leadership of the 800th MP BDE at AGP, and he took appropriate action. During his visit to AGP in November 2003, he noted the lack of improvement in the defense preparations by the 320th MP BN and the 800th MP BDE and their failure to follow his previous directives. As a result, he directed that COL Pappas, as the senior CDR present and, in several witnesses' view, a more competent leader, be the FOB CDR in charge of force protection at AGP. He counseled BG Karpinski during this visit regarding his concerns about the lack of force protection improvements, and told her she needed to take all actions commensurate with her rank and authority to take care of her Soldiers, and that if she did not receive the support she needed from his staff, to raise the issue to his level. LTG Sanchez' counsel to BG Karpinski was appropriate and consistent with the unsatisfactory conditions that LTG Sanchez observed at AGP. In January 2004, LTG Sanchez issued BG Karpinski a memorandum of admonishment concerning the reported detainee abuse, and other incidents, which reflected a lack of clear standards, proficiency, and leadership within the BDE.

(b) (U) During MG Ryder's out-brief on 6 November 2003, LTG Sanchez asked MG Ryder for his considered opinion on BG Karpinski's leadership. MG Ryder indicated that he thought BG Karpinski was a weak leader, but that his team provided her command the requisite tools and resources she needed to order to succeed pending their scheduled redeployment in early 2004. The evidence indicated that LTG Sanchez considered seeking BG Karpinski's relief, but decided that since her unit had just undergone a thorough, constructive assessment by MG Ryder's team of detention experts, he should provide her an opportunity to improve her command. Additionally, had he chosen to remove BG Karpinski from command, the evidence established that there were no readily available backfills. MG Ryder had informed LTG Sanchez that there were no available MP GOs in the AC or RC, and the number of MP COLs was very limited. Replacement units for the 800th MP BDE were scheduled to start arriving in January 2004, and the CDRs of those units were reputed to be competent officers. LTG Sanchez believed that BG Karpinski was provided the information she needed to successfully accomplish the detention mission, and, given that he did not have a viable replacement, justifiably made the decision to retain her in command. LTG Sanchez' decision to retain BG Karpinski as the CDR, 800th MP BDE, was a considered one, and was within his authority as the CG, CJTF-7. As such, his decision did not violate an Army standard.

(7) (U) **With respect to the categorization of detainees by CJTF-7**: The Schlesinger Report stated that CJTF-7 determined that some of the detainees held in Iraq were to be categorized as unlawful combatants. Despite lacking specific authorization to operate beyond the confines of the GCs, CJTF-7 nonetheless determined it was within their command discretion to classify as unlawful combatants individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President and extended it in Iraq to those who were not protected as combatants under the GCs. CJTF-7 had no means of discriminating detainees among the various categories of those protected under the Geneva Conventions and those unlawful combatants who were not.

(a) (U) The evidence indicated that LTG Sanchez and other leaders in CJTF-7 understood the difference between the categorization of a detainee as an enemy combatant and an unlawful combatant, and as such, applied the proper categorization to the detainees held at AGP. (b)(7)(D) (b)(7)(D) The term "unlawful combatant" applied to a category of terrorist to whom the GCs did not apply as a matter of law, such as those detainees held at GTMO. Unlawful combatants were persons who took up arms against occupation forces and did not meet the criteria for EPW status and, accordingly, immunity from prosecution for war-like acts. CJTF-7's position was that unlawful combatants were nonetheless protected persons under the fourth GC and were afforded the protected status of civilian security detainee. This allowed internees to be prosecuted before the Central Criminal Court of Iraq for attacks on coalition forces, but still afforded them protections under the GCs.

(b) (U) The term "unlawful combatant" was never adopted by CJTF-7 because the leadership understood that the GCs were fully applicable to Iraq. The Schlesinger Panel apparently confused the terms and contended that CJTF-7 adopted the unlawful combatant approach. This course of action was rejected by CJTF-7 because the GCs were fully applicable to Iraq. As such, there was no credible evidence that LTG Sanchez improperly permitted the incorrect categorization of detainees in Iraq as "unlawful combatants" who were not subject to the GCs.

d. (U) The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that LTG Sanchez was not willfully derelict,

negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations.

(1) (U) Multiple senior leaders, either in LTG Sanchez' chain of command or in positions to make such judgments, unanimously testified to the overwhelming responsibilities placed on LTG Sanchez and CJTF-7 and to his admirable performance of duty in a resource-constrained and hazardous combat theater. No senior leader interviewed believed that LTG Sanchez was derelict in his duties. On the contrary, the Jones Report indicated that the CJTF-7 staff performed above expectations in the overall scheme of OIF, in a "tremendously horrid environment" while confronting "a faceless enemy whose hatred of the US knew no limits." The report further stated that had the pace of combat operations and the support to the CPA not been so overwhelming, the CJTF-7 staff might have been able to provide additional oversight to interrogation operations at AGP. LTG Sanchez had a huge scope of responsibility with respect to the support of the CPA, the building of an Iraqi security force, and the reconstruction of Iraq, but he also had to focus on the defeat of the insurgency that was killing his Soldiers. When the complexity, circumstances, and scope of the insurgency were considered, the evidence indicated LTG Sanchez exceeded expectations. His accomplishments were especially noteworthy given the under-resourced and inexperienced staffs in CJTF-7 and CPA with which LTG Sanchez had to work. (b)(7)(D) (b)(7)(D) LTG Sanchez reported it quickly once it was brought to his attention because he recognized that it was a major problem, and promptly initiated an investigation. When the Taguba investigation was complete, LTG Sanchez took the additional step of requesting a second investigation, which was ultimately completed by GEN Kern, to thoroughly and completely investigate all the abuse incidents at AGP. There was no effort by LTG Sanchez or his staff to minimize, hide, or ignore the situation. The evidence established that LTG Sanchez accepted responsibility for his command, held those within his command responsible for their actions, and directed investigations to identify failures and fix responsibility.

(2) (U) There was no evidence that LTG Sanchez was derelict in his duties with respect to detention and interrogation operations through willfulness, neglect, or culpable inefficiency. On the contrary, the evidence established that LTG Sanchez consistently and pro-actively took appropriate action at the strategic level of leadership regarding the oversight, resourcing, and planning for both missions. There was no evidence of negligence, culpable inefficiency, or willful dereliction. LTG Sanchez recognized early on that there were shortfalls in the detention and interrogation missions, and immediately requested assistance, resulting in the Ryder and Miller team visits and the subsequent deployment of follow-on training and assistance teams. LTG Sanchez pushed for a greater fill of GOs on the staff to provide the level of authority and experience needed to operate at a CJTF level, and received GOs for

several key staff positions. He requested a GO for detention operations in recognition of the challenges that remained in that area, but a GO did not arrive until March-April 2004. When resourcing shortcomings at AGP were brought to his attention, he declared AGP an enduring base and additional funds and engineering effort were directed to the prison. He personally inspected the force protection preparations at AGP, and upon determining that the defense measures were unsatisfactory, immediately made the decision to change the TACON relationship at AGP to ensure force protection improvements were made. He emphasized the humane treatment of Iraqi citizens and the applicability of the GCs in multiple FRAGOs and during his personal visit with the interrogators at AGP.

(3) By all accounts, LTG Sanchez was an involved leader who took the time to visit his units and Soldiers and readily directed corrective action when he observed problems or when issues were brought to his attention. While certain alternative actions, in hindsight, might have been more effective or beneficial, LTG Sanchez' actions, in the context of the environment in which they occurred, were not willfully derelict, negligent, or culpably inefficient. Rather, the austere environment, lack of staff, and growth of responsibilities all created obstacles that LTG Sanchez and the CJTF-7 staff successfully overcame through, by all accounts, heroic efforts. As such, LTG Sanchez' actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, LTG Sanchez' efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

2. (U) **Allegation #2: LTG Sanchez improperly communicated interrogation policies.**

a. (U) AR 600-100 stated that all leaders were responsible for effectively communicating vision, purpose, and direction. General officers at the strategic levels of the Army were responsible for creating policies, structures, and programs. They affected all members junior to them by formulating policies that supported and sustained Army values, and by ensuring that procedures developed at lower levels further supported Army policy and values. (EXHIBIT B-2)

b. (U) The allegation that LTG Sanchez improperly communicated interrogation policy was derived from the following statements in the reports reviewed for this investigation:

(1) (U) From the Jones Report: Policy memorandum promulgated by LTG Sanchez led indirectly to some of the non-violent and non-sexual abuses.

Interrogation technique memorandums did not adequately set forth the limits on interrogation techniques. Existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned in order to gain intelligence. Lack of consistent policy and command oversight regarding interrogation techniques, coupled with changing policies, contributed to the confusion concerning what techniques could be used, which required higher level approval, and what limits applied to permitted techniques. (EXHIBIT C-25)

(2) (U) From the Schlesinger Report: The policy memoranda promulgated at the CJTF-7 level allowed for the interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (EXHIBIT C-26)

c. (U) **With respect to the development of the September and October 2003 CJTF-7 interrogation policies:**

(1) (U) The evidence established that the development of CJTF-7 interrogation policy was part of a broad, deliberate and iterative effort by LTG Sanchez to meet recognized needs in detention and interrogation operations. As cited previously, AGP was re-opened by the CPA in May 2003 to begin to reestablish the Iraqi prison system. As CJTF-7 became increasingly involved in counter-insurgency operations, AGP was also used for the detention of civilian security detainees suspected to be involved in the insurgency. MI units were assigned to AGP to establish an initial interrogations capacity. MG Fast arrived at CJTF-7 and was charged to develop an operational intelligence capability for CJTF-7 and the CPA. In August 2003, CJTF-7 requested the MG Ryder assessment, a strategic look at both military and Iraqi national detention systems. At about this time, LTG Sanchez determined that the current interrogation efforts were not producing the actionable intelligence needed to fight the insurgency. He was concerned about the training and experience level of the interrogators and the lack of a theater-level interrogation policy. Early in September 2003, MG G. Miller visited the ITO to provide recommendations in support of improved operational interrogation capabilities.

(2) During his out-brief to LTG Sanchez in September 2003, MG G. Miller recommended that CJTF-7 develop interrogation authorities and promulgate a memorandum because the interrogators were unsure of their authorities. LTG Sanchez agreed, and directed COL Warren to take the lead on the development of a CJTF-7 interrogation policy. A working group consisting of SJA officers and MI personnel from the 205th MI BDE drafted the interrogation policy. The 14 September 2003 policy drew heavily from the GWOT policy, the 1987 version of FM 34-52, the prior experience of MI

personnel in Afghanistan, and it included several safeguards. Although the evidence indicated that the policy was not staffed with MG Fast, mitigating circumstances included her absence during the period the policy was drafted, the limitations of internal secure communications within CJTF-7, the physical dispersion of the staff, and the urgency of the tasking. The final policy was reviewed by COL Warren, whom LTG Sanchez trusted as an acknowledged Army expert on operational law. COL Warren personally briefed LTG Sanchez on the policy, and after he was assured the policy adequately defined the interrogation authorities while complying with the GCs, LTG Sanchez signed the memorandum. Based on his determination that the need for an interrogation policy was urgent, LTG Sanchez made the conscious decision to implement the 14 September 2003 policy while simultaneously sending it to CENTCOM for comment.

(3) (U) The CENTCOM SJA was concerned that while the interrogation techniques were not illegal per se, the policy should more closely follow FM 34-52 and be more restrictive. As a result, the policy was modified to include only techniques found in the 1987 version of FM 34-52, plus segregation, and additional restrictions were applied. The 12 October 2003 policy was disseminated through the normal FRAGO process, and copies were distributed to unit LNOs on the CJTF-7 staff. The CENTCOM SJA had no objections to the October policy memorandum. MG Fast recalled reviewing the policies later and had no objections. She was aware that the SJA had determined they were legally sufficient with respect to the GCs.

(4) (U) Internal CJTF-7 staffing of the interrogation policies was not ideal and this was influenced by several factors. As cited previously, interrogation experience and expertise in CJTF-7 resided in the 205th MI BDE. Operational law expertise lay with COL Warren, the SJA. MG Fast, the C-2, was not in theater during preparation of the 14 September 2003 policy. (b)(7)(D) (b)(7)(D) (b)(7)(D) Interrogation expertise in the 205th MI BDE was greater than in her C-2 organization. The evidence indicated that limitations of internal secure communications within CJTF-7, the physical dispersion of the staff, and the urgency of the requirement also hampered traditional staffing procedures. In retrospect, while a broader staffing of the policy with MG Fast was desirable, and could have potentially improved clarity, the evidence indicated such staffing would not have significantly affected the substance of the policy.

(5) (U) The evidence established that the development of the CJTF-7 interrogation policy was a deliberate, iterative process that involved appropriately knowledgeable personnel in the 205th MI BDE, who would be implementing the policy, and the SJAs of CJTF-7 and CENTCOM. The absence of staffing with MG Fast was a

potential shortcoming, although mitigated by urgent and difficult circumstances. In light of LTG Sanchez' concern over the need for a theater interrogation authority to define the interrogators' limits, a failure to publish such policy would have potentially been a far greater shortcoming. Additionally, CJTF-7's publication of two different interrogation policies within a month of each other was not improper, nor did that render the policies inconsistent. Although the policy changed significantly from September to October, those changes were in response to identified CENTCOM concerns that were then considered and accepted by the SJA, CJTF-7. Both policies were rooted in FM 34-52, and both required that all interrogations be conducted in accordance with the GCs. As such, the policies' fundamental focus was not inconsistent from one version to the next.

d. (U) **With respect to the adequacy of the September and October 2003 CJTF-7 interrogation policies:**

(1) (U) The Jones Report stated that the CJTF-7 interrogation policies were confusing. The confusion contributed to the belief that additional techniques were authorized and the policies did not adequately set forth the limits on interrogation techniques. The Schlesinger Report stated interrogation policies were inadequate or deficient, and techniques for GTMO migrated to Iraq, where they were neither limited nor safeguarded.

(2) (U) The Jones Report found that some personnel at AGP were confused regarding which interrogation techniques were authorized for use, in spite of LTG Sanchez' attempt to specify a range of interrogation techniques and safeguards. The Jones Report further stated that misinterpretation of CJTF-7 policy memorandums led to some of the non-violent and non-sexual abuses at AGP. The Kern Report cited portions of the September and October 2003 policies that, in the report author's view, were confusing. The portions pertained to the concept of the interrogator's control of all aspects of the interrogation, use of military working dogs, and isolation vs. segregation. However, both MG Fast and LTG Sanchez personally visited with the interrogators in October 2003, inquired into the interrogators' understanding of the policy, and stressed the importance of conducting interrogations within the constraints of the GCs. Neither noted any confusion among the interrogators with whom they met, nor were questions raised regarding the policies. The Church Report found that even if interrogators were confused by the issuance of multiple interrogation policies, none of the approved policies would have permitted the types of abuses that occurred. There was no evidence that clarification of the policies was ever sought by anyone in the 205th MI BDE that may have resulted in a subsequent review and modification of the policy.

(3) (U) Additionally, the 14 September 2003 policy was an amalgam of interrogation techniques already in use at GTMO and Afghanistan. While this "migration" of interrogation techniques was criticized by the Schlesinger Report, it was not unreasonable for the drafters of the policies to incorporate techniques used successfully in other theaters as they attempted to identify all current effective techniques. It was noted that the FM used by the drafters was 16 years old at the time, and LTG Sanchez already determined that interrogations using only techniques specified by the FM were not producing the intelligence needed to fight the growing insurgency. MG G. Miller confirmed this shortcoming during his assessment visit, and provided the GWOT memorandum as a resource for the development of a CJTF-7 policy with the caveat that it required modification for the ITO because the GCs applied. These non-FM techniques were not specifically prohibited for use in Iraq, as was suggested by some of the reports reviewed. The GWOT memorandum was addressed only to the CDR, SOUTHCOM. No DOD or CENTCOM guidance existed that specified or limited interrogation authorities for any other theater. As such, it was not improper for LTG Sanchez to include techniques previously approved for other theaters in his interrogation policy for the ITO.

(4) (U) The evidence established that both the September and October 2003 policies included adequate limits and safeguards for the conduct of interrogations. The PSI investigating officer found that neither policy violated the GCs. Additionally, the Church Report found no direct or indirect link between interrogation policy and detainee abuse. The Church Report further found that much of the substantiated abuse was unconnected to any interrogation technique or policy, as it was committed by personnel who were not MI interrogators and who almost certainly did not know the details of the policies. Both CJTF-7 policies required that interrogators conduct interrogations in accordance with the GCs and detailed safeguards. Both policies prescribed specific techniques authorized for use and required personal approval by LTG Sanchez for the use of any technique not listed in the policy. The C-2 and SJA were required to review any written request for use of a non-specified technique prior to forwarding to LTG Sanchez for approval. No requests for additional techniques were ever sent to LTG Sanchez. Both policies required the development of specific interrogation plans, trained interrogators, and appropriate supervision during execution.

(5) (U) A proper analysis of the CJTF-7 interrogation policies cannot be conducted without a consideration of the responsibilities of leaders below LTG Sanchez' level. As the CG, CJTF-7, LTG Sanchez operated at the strategic level of leadership. AR 600-100 stated that all leaders were responsible for effectively communicating vision, purpose, and direction. GOs at the strategic level were responsible for creating policies, structures, and programs that supported and sustained Army values, and for ensuring that procedures developed at lower levels further supported Army policy and

values. By promulgating the CJTF-7 interrogation policies, LTG Sanchez properly communicated explicit interrogation authorities for implementation by the 205th MI BDE and provided the overarching structure by which the 205th MI BDE would conduct interrogation operations. These policies provided the guidance COL Pappas, as a senior leader, was to use to develop the specific implementation guidance and standard operating procedures for the execution of the interrogation policies. In turn, MI leaders at the direct level of leadership in the JIDC were responsible for developing interrogation plans, training their interrogators, and supervising the execution of interrogations in accordance with the CJTF-7 policies and, accordingly, the GCs. The Jones Report found that leaders at AGP failed to supervise their units or provide direct oversight of the interrogation mission. This failure of leadership occurred at the 205th MI BDE level or below. It was not attributable to LTG Sanchez, who, in fact, acted properly as a strategic leader by communicating direction and guidance via the CJTF-7 interrogation policies. These policies ultimately required interrogations be conducted in accordance with the GCs. In hindsight, the policies could have been written in a more clear fashion. However, LTG Sanchez' decisions to promulgate interrogation policies in the absence of any other guidance, revise the policies when provided valid constructive concerns, and disseminate the policies to the senior MI CDR in the ITO for implementation, were appropriate and properly within his scope of responsibilities as a strategic leader. As such, his actions did not violate an Army standard.

D3

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Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was taken on 13 September, 2004 at the Pentagon, Washington, DC between the hours of 1310 and 1415
By (b)(6)-4 & (b)(7)(C)-4 and Lieutenant Colonel (b)(6)-4 & (b)(7)(C)-4
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1310. This inquiry is directed by The Inspector General of the Army.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to FOIA. Since I'll ask you to provided your Social Security Number to help identify you as the persons testifying I've previously provided you with an explanation of the Privacy Act.

[U] Did you understand it, Sir?

[U] MG FAY: Yes, I did,

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] (b)(6)-2 & (b)(7)(C)-2 Do you have any questions before we begin, Sir?

[U] MG FAY: I do not.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [Major General George R. Fay was sworn and testified under oath as follows:]

BY (b)(6)-2 & (b)(7)(C)-2 [redacted]

[U] Q. Sir, you may lower your hand. For the record, please your name?

[U] A. George R. Fay.

[U] Q. Your rank and component?

[U] A. Major General, united States Army Reserve.

[U] Q. Your current position and organization?

[U] A. I'm the Assistant Deputy Chief of Staff, G2, , Army Staff.

[U] Q. Your Social Security Number, and Sir, this is voluntary.

[U] A. (b)(6)-4 & (b)(7)(C)-4 [redacted]

[U] Q. And an address either home or office keeping in mind that the return address on any correspondence from this office will indicate that it is from the Department of the Army Inspector General.

[U] A. Okay, (b)(6)-4 & (b)(7)(C)-4 [redacted] (b)(6)-4 & (b)(7)(C)-4 [redacted]

[U] Q. All right, Sir, and a phone number?

[U] A. (b)(6)-4 & (b)(7)(C)-4 [redacted]

[U] Q. Yes, Sir. And a phone number either home or office?

[U] A. Office phone number is Area Code (703) 693-5589.

[U] Q. All right, Sir, thank you. All right, we'll go ahead and get into the questions now. As I indicated to you before, the questions that we have for you today pertain to the findings and conclusions and evidence that were cited in what I will refer to as the Fay Report. It is also called the Kem Report depending on who you ask. So these questions will focus on those particular findings.

[U] A. Since you're asking me I'll call it the Fay Report.

[U] Q. Yes, Sir, it sounds good to me.

[U] A. Okay.

[U] Q. Okay. Sir, one of the findings that you made in the report was that there was a lack of clear command and control of detainee operations at the CJTF-7 level. And by the way, Sir, I have brought the report with me so that if at any report we need to refer to it we can.

Sir, in your view who in CJTF-7 at that time was responsible overall for detainee operations prior to the assignment of Major General Geoff Miller?

[U] A. That was the problem.

[U] Q. Yes, Sir.

[U] A. Is that there was a real confusion as to who was in charge of detainee operation and that was our finding is that there was no clearly one person in charge. It was a shared responsibility amongst a number of staff elements and staff persons and commanders. And because it was so shared because everybody owned it nobody owned it.

[U] Q. Can you cite some of the folks that had a shared responsibility?

[U] A. Yes, well obviously first starting with the overall responsibility being, , Lieutenant General Sanchez as the CJTF-7 Commander, but below him there was the—, Deputy Commander who was—, Major General Wojdakowski, , and he had some responsibilities because he had both the 800th MP Brigade Commander and the Army Military Intelligence Brigade the 203rd?

[U] Q. Fifth.

[U] A. The 205th MI Brigade Commander both reporting to him. , but quite frankly Major General Wojdakowski was mostly involved with the logistics questions and running the huge numbers of logistics issues that concerned CJTF-7 at that time. And although he was somewhat involved with the detainee operations, I wouldn't say that he was focused on that. At least not based on my investigation.

[U] Q. Yes, Sir.

[U] A. And he was—and from that aspect he was even more involved with the MP Detention portions than he was the interrogation

portion. I think when it came to the interrogation area he just relied very heavily on Colonel Pappas as the Commander of the 205th MI Brigade.

[U] Q. Who he rated as well?

[U] A. Who he rated as well. He did not rate General Karpinski who was the Commander of the 800th MP Brigade. Although she thought that he was going to be rating her. But anyway, that—and I cover all that in the report.

[U] Q. Right.

[U] A. It's very—it was very confusing.

[U] Q. Yes, Sir.

[U] A. Additionally you had the Provost Marshal of CJTF-7 who had some responsibilities, but where they began and where they ended no one was quite sure. You had the CJTF-7 C-2 Staff, that would have been Colonel (b)(6)-2 & (b)(7)(c)-2 in the beginning and then it shifted to Major—well first it was Brigadier General and then Major General Fast, after Colonel (b)(6)-2 & (b)(7)(c)-2 So—and they had some responsibility relative to the interrogation operations and also the release boards, and then you had the Staff Judge Advocate that was providing legal advice and assistance not only to General Sanchez but each of those staff elements that I mentioned.

[U] So they were all involved. And the reality was because there were so many people involved it wasn't clear. It wasn't a focused issue , until General Miller was named and he did bring it under focus.

[U] How about Major General Tom Miller, Sir, the C-3, did he have a role that you saw?

[U] Well actually, when I was doing my investigation that General Fast informed me that at one point in time General Sanchez at a meeting became so frustrated with the whole detention operations issues, interrogations included with that, that he said, "Who here is responsible for this?" referring to his whole staff. And he then—General Sanchez —turned to General Tom Miller and said, "You're the three. You're responsible. " Now, General Fast had first believed at that meeting that occurred in October. General Miller when I interviewed him said, no, no, that did occur but it occurred much latter and in a time period that he thought, as I recall, was some time around February of 2004 when that meeting occurred.

[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

SAIG-IN

MEMORANDUM THRU

IN, LEGAL [redacted] 31 Jan.05

IG, LEGAL [redacted] 31JAN2005

~~CH, IN~~ [redacted] 31 JAN05

~~XO~~ [redacted] 31 JAN 05

FOR ATIG Approved [redacted] Disapproved______ See Me______ Date 31 Jan 05

SUBJECT: Alleged Impropriety by MG Barbara G. Fast, US Army Intelligence Center (USAIC), Fort Huachuca, Arizona (DIG 04-80003) (UPDATE)

1. (U) On 12 October 2004, The Inspector General of the Army (TIG) directed an inquiry into the allegation that MG Fast was derelict in the performance of her duties.

2. (U) Background: In July 2003, MG Fast was assigned as the Assistant Commandant, USAIC, and assumed C-2, Combined Joint Task Force (CJTF)-7, duties in Iraq on 29 July 2003. She redeployed to Fort Huachuca in July 2004, and was awaiting assignment.

3. (U) Reports Reviewed:

a. (U) On 9 September 2003, MG Geoffrey Miller, Commander (CDR), Joint Task Force (JTF) Guantanamo Bay (GTMO), completed a Department of Defense (DOD) assessment of counterterrorism interrogation and detention operations in Iraq. The assessment discussed the theater's ability to rapidly exploit internees for intelligence, and focused on three areas: intelligence integration, synchronization, and fusion; interrogation operations; and, detention operations. This assessment was commonly referred to as the Miller Report.

b. (U) On 6 November 2003, MG Donald Ryder, Provost Marshal General, completed an assessment of detention and corrections operations in Iraq. The report made assessments and specific recommendations concerning detention and correction operations in Iraq to assist in resolving the management and administration of detainee operations. This assessment was commonly referred to as the Ryder Report.

c. (U) On 26 February 2004, MG Antonio Taguba, Deputy CDR, Coalition Forces Land Component Command (CFLCC), completed an Army Regulation (AR) 15-6 investigation that inquired into the facts and circumstances surrounding allegations of detainee abuse at the Abu Ghraib Prison (AGP), Baghdad, Iraq. This report of investigation (ROI) was commonly referred to as the Taguba Report.

d. (U) Based on recommendations in the Taguba Report, a further investigation was initiated on 15 April 2004, UP of Procedure 15, AR 381-10, US Army Intelligence Activities, dated 1 July 1984. MG George Fay, Deputy G-2, US Army, investigated the relevant facts and circumstances surrounding the alleged misconduct on the part of personnel assigned and/or attached to the 205th MI BDE at AGP (commonly referred to as the Fay Report). LTG Anthony Jones, Deputy CDR, Training and Doctrine Command (TRADOC), focused on whether organizations or personnel higher than the 205th MI BDE were involved, directly or indirectly, in activities regarding the alleged detainee abuse at AGP (commonly referred to as the Jones Report). GEN Paul Kern, CDR US Army Materiel Command, was the appointing authority.

e. (U) On 25 May 2004, the IG, US Navy, was directed to lead a DOD joint team for the purposes of identifying and reporting on all DOD interrogation techniques related to operations in GTMO, Afghanistan, Iraq, the Central Command (CENTCOM) area of operations (AOR), and the Iraqi Survey Group (ISG). Specifically, the assessment would ensure that all areas of concern to the DOD regarding detention operations were being addressed adequately and expeditiously, and would report any gaps or seams among those reviews and investigations. This assessment was commonly referred to as the Church Report. As of the date of this inquiry, the Church Report was not released.

f. (U) On 25 June 2004, DAIG initiated DIG 04-80003 to identify MG Fast's potential involvement, the level of that involvement, and any allegations of impropriety related to US Army detainee operations in Afghanistan, Iraq, and Guantanamo Bay (GTMO).

g. (U) On 21 July 2004, the Inspections Division, DAIG, completed a "Detainee Operations Inspection" report that included Iraq. This report responded to the Acting Secretary of the Army's directive to conduct a functional analysis of the Army's conduct of detainee and interrogation operations to identify any capability shortfalls with respect to internment, enemy prisoner of war detention operations and interrogation procedures and to recommend appropriate resolutions or changes if required.

h. (U) On 23 August 2004, the Kern Report was released. The Kern Report consisted of the classified Kern Report; an unclassified Executive Summary (EXSUM) of the Kern Report, and the two unclassified Jones and Fay reports.

i. (U) On 24 August 2004, a DOD independent panel completed its Final Report of the Independent Panel to Review DOD Detention Operations. The DOD panel members provided independent professional advice on detainee abuses in the CENTCOM AOR, what caused them, and what actions should be taken to preclude their repetition. The panel reviewed various criminal investigations, and a number of command and other investigations. The Honorable James R. Schlesinger was the panel chairman. This assessment was commonly referred to as the Schlesinger Report.

j. (U) The senior leader focus of this DAIG inquiry differed from that of the Taguba, Kern, Jones, Fay, and Schlesinger reports. Although there were instances where DAIG's conclusions differed from the Kern, Jones, Fay, and Schlesinger reports, the differences were attributed to DAIG having fewer time constraints and the opportunity to review additional evidence not available at the time these reports were finalized. In certain instances, the supporting evidence in the reports did not meet DAIG's preponderance of the evidence standard and DAIG was unable to reach the same conclusions. Differing findings in this DAIG inquiry and the cited reports should not be misinterpreted to mean that DAIG found the reports to be inaccurate. Each report must be considered in light of its focus, the evidence available at the time, the personal observations of the investigative team, and the documentation supporting the findings.

4. (U) Operational Environment:

a. (U) On 20 March 2003, coalition forces, which included V US Corps, began combat operations to disarm Iraq of its weapons of mass destruction and to remove the Iraqi regime from power. Military operations continued after the end of major combat operations on 1 May 2003. Initially, the Office of Reconstruction and Humanitarian Assistance (ORHA) was established under CFLCC (3d US Army) to help rebuild Iraq. ORHA was followed in May 2003 by the Coalition Provisional Authority (CPA), under the direction of Ambassador L. Paul Bremer, Presidential Envoy to Iraq, who reported to the Secretary of Defense (SECDEF). The establishment of the CPA marked a deliberate transition from military primacy and civil subordination to the CPA with civilian lead and the military element in a supporting role. There was a realization that no military action in Iraq was without political context, and that political and military arms needed to operate in concert.

b. (U) US Army Forces, US Central Command (ARCENT), was previously designated as the CFLCC conducting operations in support of Operation Enduring Freedom (OEF) in Afghanistan, and was forward deployed in Kuwait. CFLCC also had responsibility for all coalition land combat forces in the Iraqi Theater of Operations (ITO). As a warfighting HQs, CFLCC prosecuted Phases I-III (thru major combat operations) of the CENTCOM Operations Plan (OPLAN) for the liberation of Iraq at the operational level of war. During Operation Iraqi Freedom (OIF), the descending chain of command and corresponding lines of authority and responsibility were from CENTCOM to CFLCC to V Corps.

c. (U) As a result of CFLCC's focus on campaigns in Afghanistan and Iraq over a two-year period, CENTCOM determined that CFLCC needed to return to its CENTCOM AOR wide focus, and that a dedicated warfighting headquarters was required for Phase IV operations in Iraq. On 14 June 2003, V Corps transitioned into CJTF-7. On 15 June 2003, a transfer of authority (TOA) occurred between CFLCC and CJTF-7. At the direction of CENTCOM, CJTF-7 began Phase IV (Stability and Support Operations (SASO).

(1) (U) CFLCC ceased to be a coalition warfighting HQs at the operational level of war in the ITO and ceased to be CJTF-Iraq, a role assumed three weeks prior. CFLCC reestablished its principal role as the Army Service Component Command (ASCC) of CENTCOM. As such, CFLCC became a strategic force provider while providing essential logistics, communications, engineer, and medical support to all deployed Services in the CENTCOM Area of Responsibility (AOR). Elements of the CFLCC staff, some of whom had been in the AOR since June 2001, redeployed to Ft McPherson, GA. Other CFLCC staff was assigned in support of CJTF-7.

(2) (U) V Corps transitioned to CJTF-7 and assumed CFLCC's roles, missions and responsibilities as the senior tactical and operational HQs in the ITO. CJTF-7 was also responsible to provide direct support to the CPA. LTG Ricardo Sanchez, Commanding General (CG), V Corps, previous CG, 1st Armored Division (AD), was promoted to LTG, and had assumed command of V Corps on 10 June 2003, and CJTF-7 on 15 June 2003. In a short period, V Corps transitioned from a tactical warfighting Army component HQs to a multinational JTF whose missions and responsibilities extended across the entire spectrum of conflict and included joint, coalition and civilian agencies. Its support to the CPA added a strategic and Political/Military (POLMIL) dimension to its responsibilities.

(3) (U) A Joint Manning Document (JMD) was developed to delineate the specific skill sets of personnel needed to perform the increased roles and functions of the new HQs. After multiple reviews, the JMD was formally approved for 1400 personnel. The JMD included personnel needed to support the CPA, staff the functional elements needed to focus at the joint operational and strategic levels, and specifically augment areas such as intelligence, operations, and logistics. The V Corps staff transitioned to only 495 personnel within the new manning requirement. The new JMD also required that key staff positions be manned by general officers (GOs) rather than the normal colonel level positions on a Corps staff. The CJTF-7 staff began with a strength below 40% and achieved no more than a 60% fill through December 2003.

(4) (U) In July 2003, shortly after the stand-up of CJTF-7, LTG Sanchez and the Vice Chief of Staff, Army (VCSA) discussed the lack of intelligence capacity and GO manning in CJTF-7. The VCSA committed to providing additional GO's in support of CJTF-7.

(5) (U) During this time, CJTF-7 was in a direct support role to the CPA. There was a recognition that with the transition from major combat to SASO, that military operations should begin to cede primacy to civilian/political lead. CPA and CJTF-7 worked in concert as a recognition that political and military operations in Iraq could not be separate and distinct from one another. The CPA had manning challenges similar to CJTF-7, and little capability outside of Baghdad. CENTCOM and CJTF-7, by both design and necessity, contributed military staff in support of CPA. There was a belief that a Corps, with augmentation, was capable of executing a JTF SASO in a permissive environment. This decision also anticipated the growth in Iraqi capabilities and institutions to assist in that effort.

(6) (U) Plans for Phase IV (SASO) anticipated a relatively permissive environment. In reality, following the conclusion of major combat operations in May 2003, the conflict transitioned to a terrorist/insurgency environment in August/September 2003. Coalition forces began capturing and interrogating larger numbers of alleged insurgents. AGP, re-opened initially by Ambassador Bremer as the only available facility to hold criminals pending restoration of the Iraqi national justice and corrections systems, was used to detain and interrogate insurgents and other persons of intelligence interest.

(7) (U) The unit responsible for detention operations at AGP was the 800th Military Police (MP) BDE, a US Army Reserve (USAR) unit assigned to CFLCC to conduct internment/resettlement (I/R) operations in theater. The 800th MP BDE was commanded by BG Janis Karpinski, who assumed command on 29 June 2003, following the end of Phase III operations.

(8) (U) The unit with command responsibility for interrogation operations at AGP was the 205th Military Intelligence (MI) BDE, commanded by COL Thomas M. Pappas since 1 July 2003. The 205th MI BDE was organic to V Corps, and transitioned to become CJTF-7's assigned MI BDE. As the intelligence assets CDR, the 205th MI BDE was responsible for effectively employing forces in the accomplishment of assigned missions.

d. (U) From approximately 5 October to 3 December 2003, a team of subject matter experts from GTMO, OPCON to the 205th MI BDE, assisted in the implementation of the recommendations identified by the Miller Report. The

GTMO Team included three interrogators and three analysts, organized into three teams, with one interrogator and one analyst on each, which was the GTMO "Tiger Team" concept. The GTMO Team was tasked with the mission of building a robust and effective Joint Interrogation and Debriefing Center (JIDC), and identifying solutions and providing recommendations for the JIDC. This was a deliberate effort in support of the realization by Ambassador Bremer and LTG Sanchez that the CPA and CJTF-7 required a higher degree of operational intelligence in order to define and combat the growing insurgency.

e. (U) From 7 to 21 October 2003, a five person Interrogation Support to Counterterrorism (ISCT) Mobile Training Team (MTT) from the US Army Intelligence Center conducted an overall assessment of interrogation operations, presented training, and provided advice and assistance at the AGP JIDC. This course was initially developed in response to requirements that surfaced during interrogation operations at GTMO, and specifically to prepare reserve interrogators and order of battle analysts for deployment to GTMO. This was an additional effort to strengthen intelligence gathering skills and effectiveness within the ITO.

f. (U) In September and October 2003, CJTF-7 published Interrogation and Counter Resistance Policy (ICRP). This ICRP was prepared at the recommendation of subject matter experts who visited Iraq, and based on LTG Sanchez' awareness of various Department of Defense policies for other theaters, his own awareness of the applicability of the Geneva Conventions in the ITO, and his concerns over the variety of interrogator experience from other theaters. The policy was intended to clarify allowable approaches, ensure safeguards, and facilitate training and execution by CDRs. The Jones report stated that in each theater, CDRs were seeking guidance and information on the applicability on the articles of the GC to specific population sets and on what techniques could be used to improve intelligence production and remain within the limits of the law.

g. (U) At the request of the Army G-2, COL(R) (b)(6)-2 & (b)(7)(C)-2 provided knowledge and expertise during an official visit to the ITO from the period 2 through 10 December 2003. COL (b)(6)-2 & (b)(7)(C)-2 assisted with evaluating the conduct of friendly intelligence operations, with an emphasis on: influencing the enemy's decision-making cycle; intercepting the "intent and direction" of the enemy in an environment that was advantageous to the enemy; and, effectively employing Human Intelligence (HUMINT) teams against insurgent groups in a difficult and hostile environment. Additionally, COL (b)(6)-2 & (b)(7)(C)-2 provided advice concerning in-country detainee operations and interrogations.

h. (U) As the C-2, CJTF-7, MG Fast had staff responsibility for intelligence requirements management and for providing intelligence to CJTF-7, its four US and two coalition divisions, and the CPA. Her responsibilities included intelligence operations, intelligence surveillance reconnaissance, target development, analysis, interrogation operations, and intelligence sharing. As the staff Senior Intelligence Officer she was the CDR's focal point for intelligence and provided a daily intelligence read to LTG Sanchez and Ambassador Bremer. Her responsibilities included identifying the initial intelligence architecture to include establishing procedures and protocols for information exchanges; disseminating intelligence between commands and services, and the fusion of intelligence from the tactical through the strategic level.

i. (U) As a GO on a CJTF, MG Fast executed responsibilities at the operational and strategic levels of war. Fifty percent of her daily efforts were in support of POLMIL affairs at the CPA and in support of the emerging Interim Iraqi Authority. There, she was tasked to establish procedures and systems to ensure effective intelligence gathering, sharing and fusion between coalition, Other Government Agencies (OGA) and Iraqi national assets. Her other significant staff responsibilities were in support of operational intelligence support to CJTF-7.

5. (U) Allegation: MG Fast was derelict in the performance of her duties.

a. (U) The allegation was derived from information contained in the Kern Report, the Jones Report, and the Schlesinger Report.

b. (U) The Kern Report reflected that there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits, and that ICRC recommendations were ignored by CJTF-7 personnel.

c. (U) The Jones Report reflected that inaction at the CJTF-7 staff level could have contributed to the failure to discover and prevent abuses before January 2004.

d. (U) The Schlesinger Report reflected MG Fast failed to advise the CDR properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of OGA within the Joint Area of Operations.

e. (U) COL (b)(6)-2 & (b)(7)(C)-2 testified that he informed MG Fast of potential abuse of detainees by a CENTCOM unit.

6. (U) Synopsis:

a. (U) Article 92 of the Uniform Code of Military Justice (UCMJ) stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

b. (U) A review of the information relevant to this allegation revealed the following:

(1) (U) As the C-2, MG Fast was responsible for providing strategic intelligence and POLMIL advice to Ambassador Bremer and the CPA, and operational and strategic intelligence and advice to LTG Sanchez and CJTF-7. MG Fast's responsibilities included establishing the priorities for intelligence collection, requirements management, analysis and fusion. Numerous senior leaders testified to MG Fast's responsibilities for providing staff oversight of intelligence operations.

(2) (U) Her own and other senior leader testimony established that MG Fast knew and accepted her duties regarding the staff supervision of intelligence operations, as assigned by the CDR, CJTF-7. b)(7)(D) [redacted]

b)(7)(D) [redacted]

b)(7)(D) [redacted]

(4) (U) Witnesses testified that MG Fast was responsible to provide MI analysis and advice to LTG Sanchez. She was responsible for the oversight of interrogations, and as such responsible for providing collection guidance to the JIDC. Responsibilities for the establishment of the JIDC, the conduct of interrogations, and the direct supervision of Soldiers at AGP fell specifically, by doctrine and command structure, to the 205th MI BDE CDR, who was responsible for the overall interrogation mission at the facility. This was consistent with b)(7)(D) [redacted] testimony regarding MG Fast's assigned responsibilities.

(5) (U) CJTF-7 did not have authority over OGA operations. The command and control of OGAs rested with their organic headquarters. However, any OGA operating in the ITO was bound by the Geneva Conventions (GC) in the same manner as CJTF-7. The evidence indicated that MG Fast was not aware of an accountability issue concerning OGA detainees. [redacted]

(6) (U) [redacted] MG Fast took immediate and appropriate action in reporting the potential abuse to the CJTF-7 Staff Judge Advocate (SJA) and LTG Sanchez. As the unit identified in the potential abuse belonged to CENTCOM, CENTCOM was promptly notified and an investigation was conducted. The evidence indicated that in instances where MG Fast was apprised of alleged abuse she took prompt action to inform proper authorities.

(7) (U) LTG Jones and MG Fay testified there was no Army doctrine that established responsibility and procedures for dealing with ICRC visits. ICRC practice was to report to the lowest level CDR having responsibility. Neither Army nor ICRC policy required or expected MG Fast's involvement in responding to the ICRC. The reports referred to were ICRC Working Papers, provided to the chain of command who after inquiring into specific allegations, did not believe the allegations were true. [redacted] There was no evidence that MG Fast was responsible for coordinating ICRC visits or for responding to ICRC recommendations.

(8) (U) The evidence indicated that the intelligence structures that CFLCC transferred, and CJTF-7's initial capabilities and resources were inadequate in addressing the intelligence requirements to operate across strategic, operational and tactical levels. Prior to MG Fast's arrival there was no structure to synchronize all the intelligence activities. When MG Fast arrived at CJTF-7, she was tasked by LTG Sanchez to focus her efforts on building an adequate intelligence structure. The Jones Report indicated the subsequent success of the architecture created by MG Fast vastly improved the intelligence process and saved the lives of Coalition Forces and Iraqi civilians, and that human intelligence operations and the fusion of intelligence led to the capture of key members of the former regime, including Saddam Hussein.

(9) (U) Evidence indicated MG Fast and her staff worked closely with the 205th MI BDE. MG Fast put mechanisms in place for staff oversight of intelligence operations. Several witnesses testified that the C-2 staff frequently visited the JIDC and

liaison officers were placed on site. With few exceptions, MG Fast made monthly visits to AGP. In November 2003, she made two visits to AGP; the first with LTG Sanchez where he spoke to interrogators ensuring they understood their left and right limits; during her second visit she spoke with 10 to 15 interrogators, to ensure once again that they (the interrogators) understood the interrogation policy.

(10) (U) The evidence indicated that MG Fast provided effective staff oversight of intelligence operations despite the low manning level of the CJTF-7, the staff's high level of support to the CPA, and the demands of the growing insurgency. Both testimony and reports reviewed revealed that CJTF-7 was never fully resourced in terms of personnel. The JMD never reached more than 60 percent fill, and much of the available staff's effort was directed towards supporting the CPA. A portion of the C-2 staff was co-located with the CPA, and MG Fast was required to commit a significant portion of her personal daily efforts in support of the CPA. While this increased the burden on her staff, evidence established that both she and CJTF-7 executed growing operational and strategic responsibilities far in excess of those envisioned for Phase IV, or for which they were resourced.

(11) (U) All testimony was consistent in stating that the JIDC operation was a command, not staff, responsibility, and that the responsibility for the organization, training and leadership of the JIDC rested with the 205th MI BDE CDR. While there were command failures in execution at the brigade level, these were not attributable to MG Fast.

(12) [redacted] The policy was based on documents provided by MG G. Miller and input by an informal working group, consisting of SJA officers and members of the 205th MI BDE. Interrogation policies were a staffed action between the SJA and the 205th MI BDE and [redacted] did not discuss the policies with MG Fast. Additionally, evidence indicated that MG Fast was out of country during the drafting and staffing of the 14 September 2003 policy memorandum and was not present in order to be involved. Further, when she returned she reviewed the policy, considered it to be Field Manual (FM) 34-52, Intelligence Interrogation, plus segregation, and therefore had no objections.

(13) (U) All senior leaders interviewed for this investigation testified that both policy memorandums complied with the GC. The responsibility for the training of interrogators and the planning and conduct of interrogations belonged to the CDR, 205th MI BDE.

(14) (U) The preponderance of the evidence indicated that MG Fast was charged with the development of the intelligence architecture to support the CJTF-7 mission as well as support to the CPA. She personally spent 50 percent of each day with the CPA providing strategic and POLMIL support. Had CJTF-7 been provided more personnel and resources, and had she been in theater at the time, MG Fast might have been more active in the development of the interrogation policy. However, the evidence indicated that MG Fast was not in theater during the policy development, and she was unaware the September policy was being drafted. Although MG Fast was not present, evidence indicated that personnel from the 205th MI BDE were directly involved in the drafting of the interrogation policy. LTG Sanchez sent the signed 14 September 2003 policy to CENTCOM stating it would be implemented unless otherwise directed. Subsequently, CJTF-7 incorporated revisions recommended by CENTCOM into the 12 October 2003 policy. Upon MG Fast's return to theater, the September policy was implemented but the revisions were pending. [redacted] Further the evidence indicated that MG Fast spoke with interrogators to ensure they understood their limits with regards to the policy.

(15) (U) The preponderance of the evidence indicated that MG Fast properly executed staff supervision of intelligence operations for CJTF-7. She clearly understood her duties and priorities as assigned by her CDR, and testimony by multiple senior officials supported both her responsibilities and accomplishments. MG Fast's actions must be evaluated in the context of the volatile and rapidly changing operational environment, and the multiple responsibilities assigned to CJTF-7. The standard required that to prove dereliction of duties, a person must be derelict in the performance of the duties through willfulness, neglect, or culpable inefficiency. Senior leaders interviewed indicated that MG Fast performed admirably given the challenges and resources with which she was faced. While some reports indicated failures and some senior officials testified that actions could have been conducted differently, none characterized MG Fast's actions as derelict. Many praised her performance. The preponderance of the evidence indicated that MG Fast properly provided staff advice on strategic and operational intelligence and promptly reported potential abuse to proper authorities.

c. (U) The preponderance of the evidence indicated that MG Fast was not derelict in the performance of her duties.

7. (U) Conclusion: The allegation that MG Fast was derelict in the performance of her duties was unsubstantiated.

8. (U) Recommendations:

a. (U) Record the allegation against MG Fast in the IN database as unsubstantiated.

b. (U) File this report as DIG 04-80003(U).

(b)(6)-2 & (b)(7)(C)-2
COL, IG
Chief, Preliminary Inquires

(b)(6)-2 & (b)(7)(C)-2
LTC, IG
Lead Investigator

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## LIST OF EXHIBITS

### VOLUME II

EXHIBIT ITEM

A Allegation

B Standard
Article 92, UCMJ

C Documents:
- C-1 DODD 5100.77, dated 9 December 1998
- C-2 AR 600-100, dated 17 September 1993
- C-3 JP 2-01, dated 20 November 1996
- C-4 FM 2-0, dated 17 May 2004
- C-5 FM 34-52, dated 28 September 1992
- C-6 FM 101-5, dated 31 May 1997
- C-7 CJTF-7 Interrogation Policy, dated 14 September 2003
- C-8 CJTF-7 Interrogation Policy, dated 12 October 2003
- C-9 The Taguba Report
- C-10 DAIG Detainee Operations Inspection Report
- C-11 The Kern Report
- C-12 EXSUM of the Kern Report
- C-13 The Jones Report
- C-14 The Fay Report
- C-15 The Schlesinger Report
- C-16 b)(6)-2 & (b)(7)(C)-2 Notes
- C-17 b)(6)-2 & (b)(7)(C)-2 Report
- C-18 Memorandum, dated 26 November 2003
- C-19 COL Pappas, Sworn Statement, dated 11 February 2004
- C-20 COL Pappas, Sworn Statement, dated 14 May 2004
- C-21 LTC Jordan, Sworn Statement, dated 27 May 2004
- C-22 b)(6)-2 & (b)(7)(C)-2 Sworn Statement, dated 19 May 2004

C-23 (b)(6)-2 & (b)(7)(C)-2 Sworn Statement, dated 24 May 2004
C-24 (b)(6)-2 & (b)(7)(C)-2 Memorandum
C-25 (b)(6)-2 & (b)(7)(C)-2 E-mail, dated 8 May 2004 and JIDC Briefing Slides
C-26 (b)(6)-2 & (b)(7)(C)-2 Sworn Statement, dated 9 May 2004
C-27 Statement, dated 20 July 2004
C-28 Statement, dated 23 December 2004
C-29 (b)(6)-2 & (b)(7)(C)-2 Sworn Statement, dated 30 December 2004 FOIA: NO

VOLUME III

D Testimony

| | | |
|---|---|---|
| D-1 | (b)(6)-2 & (b)(7)(C)-2 | FOIA: NO |
| D-2 | | FOIA: NO |
| D-3 | | FOIA: NO |
| D-4 | GEN Paul J. Kern | FOIA: YES |
| D-5 | LTG Anthony R. Jones | FOIA: YES |
| D-6 | MG George R. Fay | FOIA: YES |
| D-7 | b)(7)(C) | FOIA: NO |
| D-8 | | FOIA: NO |
| D-9 | | FOIA: NO |
| D-10 | | FOIA: YES |
| D-11 | | FOIA: NO |
| D-12 | | FOIA: NO |
| D-13 | | FOIA: NO |

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SAIG-IN (20-1b)(DIG 04-80003) (UPDATE)

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SAIG-IN (20-1b) ANNEX 1 (STANDARD) to DIG 04-80003 (UPDATE)

(U) Article 92, Uniform Code of Military Justice (UCMJ), Manual for Courts-Martial (MCM), 2002 edition, stated the elements of dereliction in the performance of duties were:

a. (U) A person had certain duties. A duty was imposed by treaty, statute, regulation, lawful order, standard operating procedure (SOP), or custom of the service.

b. (U) The person knew or reasonably should have known of those duties. Actual knowledge of duties could be proved by circumstantial evidence. Actual knowledge did not need to be shown if the individual reasonably should have known of the duties by regulation, training or operating manuals, customs of the service, academic literature or testimony, or similar evidence.

c. (U) The person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willful meant intentional. Negligence meant an act or omission of a person who was under a duty to use due care which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse. (EXHIBIT B)

Annex 2

SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80003 (UPDATE)

1. (U) Department of Defense Directive (DODD) 5100.77, dated 9 December 1998, subject: DOD Law of War Program, stated:

a. (U) In paragraph 3.2, that a possible, suspected, or alleged violation of the law of war was a reportable incident.

b. (U) In paragraph 6.1, that all military personnel would report reportable incidents through their chain of command. (EXHIBIT C-1)

2. (U) AR 600-100, Army Leadership, dated 17 September 1993, stated:

a. (U) In paragraph 1-7b, senior level leadership included military leaders at the BDE level in tactical units. Senior leaders tailor resources to organizations and programs and set command climate. Skills required for effective leadership at this level included technical and tactical competence on synchronizing systems and organizations and sophisticated problem solving.

b. (U) In paragraph 1-7c, that the strategic leaders established structure, allocated resources and articulated strategic vision. The skills required for effective leadership at this level included technical competence on force structure and integration, unified, joint, combined, and interagency operations, resource allocation, and management of complex systems, and conceptual competence in creating policy and vision and interpersonal skills.

(U) [IO Note: AR 600-100 listed the three levels of leadership as direct, senior, and strategic. These levels of leadership should not be confused with the levels of war (tactical, operational, and strategic) as outlined in Field Manual (FM) 3-0, Operations.]

c. (U) In paragraph 2-1b(1), that GOs were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further support Army policy and values. (EXHIBIT C-2)

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3. (U) Joint Publication (JP) 2-01, Joint Intelligence Support to Military Operations, dated 20 November 1996, stated:

a. (U) In Appendix G, Joint Exploitation Centers, paragraph 1d, that the subordinate Joint Force (JF) J-2 established a JIDC for follow on exploitation. The JIDC interrogation and debriefing activities were managed by the subordinate JF HUMINT staff section or HUMINT Operations Cell (HOC). Service component interrogators collect tactical intelligence from Enemy Prisoner of War (EPW) based on JF J-2 criteria. EPWs with further intelligence potential were processed for follow on interrogation and debriefing by the JIDC to satisfy theater strategic and operational requirements. The JIDC could also interrogate civilian detainees.

(U) [IO Note: While there was limited joint doctrine available regarding the JIDC, the inquiry identified no US Army doctrine regarding JIDC operations.]

b. (U) In Figure III-3, JF Joint Intelligence Staff (J-2) Organization, that the HOC was a subordinate element of the J2X within the J-2.

c. (U) In the Glossary, that the JIDC was normally subordinate to the JF J-2. (EXHIBIT C-3)

4. (U) FM 2-0, Intelligence, dated 17 May 2004, stated:

a. (U) In paragraph 6-44, a complex command and control relationship balanced the role of the Senior Intelligence Officer as the requirements manager and the *2X as the mission manager with the MI CDR as the asset manager.

(U) [IO Note: The "*" represented any level of staff, as in Corps or Joint]

b. (U) In paragraph 6-45, CDRs would exercise command over the forces assigned to their organization. Command included the authority and responsibility for effectively using resources, planning for and employment of forces, and ensuring that forces accomplish assigned missions.

c. (U) In paragraph 6-46, while the MI CDR supervised subordinates and produced reports, the *2X synchronized activities between intelligence units and provided single-source processing and limited analysis. While the MI CDR took care of the operators executing missions, the *2X obtained the data and reports from higher echelons required to execute the missions.

d. (U) In paragraph 6-47, the *2X staff was responsible for the integration, correlation, and fusion of all human sensor information into the intelligence battlefield operating system (BOS). (EXHIBIT C-4)

5. (U) FM 34-52, Intelligence Interrogation, dated 28 September 1992, stated:

a. (U) On page 1-7, Prohibition Against Use of Force, that the Intelligence Staff Officer assumed primary responsibility to ensure that all command intelligence functions were conducted in accordance with international, US, and other applicable law and policy. Specifically, the Intelligence Staff Officer was responsible to ensure the GC for the Amelioration of the Condition of the Wounded and Sick in Armed Forces (GWS) in the Field, GC Relative to the Treatment of Prisoners of War (GPW), and GC Relative to the Protection of Civilian Persons in Time of War were not violated by intelligence personnel. When conducting intelligence interrogations, the J-2, G-2, or S-2 had primary staff responsibility to ensure these activities were performed in accordance with the GWS, GPW, and GC, as well as US policies, regarding the treatment and handling of the above mentioned personnel.

b. (U) On page 2-11, the CDR, Counterintelligence (CI) Company, MI BN, Corps MI BDE, was the Corps Interrogation Facility (CIF) CDR. CIF's were the principal establishment for the exploitation of captured personnel and captured enemy documents (CEDs). The CIF conducted tactical and strategic interrogations based on the intelligence requirements and specific guidance of the Corps G-2 section.

c. (U) On page 2-12, at echelons above corps (EAC), the MI company (Interrogation & Exploitation (I&E)), MI BN (Collection & Exploitation (C&E)), EAC MI BDE, would form the Theater Interrogation Facility (TIF). The TIF, commanded by an MI CPT, provided interrogation support to the theater or joint command and to national level intelligence agencies. The TIF would be tailored organizationally to meet requirements of the theater and situation, and include interrogators, CI personnel, and intelligence analysts from the Army, Air Force, Marine Corps, and in some cases, the Navy.

d. (U) On page 2-25, the J-2 was responsible for: supervising appropriate censorship activities relating to sources, coordinating with the G-3 to ensure plans for interrogation, CI PSYOP, and CA operations were included in unit training plans and OPLANS; drafting instructions for MI handling, evacuating, and exploiting captured enemy personnel and CEDs; projecting source capture flows; determining the number of interpreters and translators needed to perform intelligence duties; controlling the procedures used to process and grant clearances to the interpreters and translators who need them; and, coordinating with the G5 on screening of non-suspect local nationals and displaced persons.

e. (U) On page 2-26, SJA could provide legal support and advice on the interpretation and application of international regulations and agreements about handling sources. It was also a channel for reporting known or suspected war crimes. (EXHIBIT C-5)

6. (U) FM 101-5, Staff Organization and Operations, dated 31 May 1997, stated:

a. (U) On page 1-1, command was the authority a CDR exercised over subordinates by virtue of rank and assignment. Command included the authority and responsibility for effectively using available resources and for planning the employment, organizing, directing, coordinating, and controlling military forces for the accomplishment of assigned missions.

b. (U) On page 4-1, the CDR could personally communicate his intent or decisions, either verbally or in writing, or he could relay information to his staff through order, CDR's guidance, and other means. When the CDR assigned a staff member a mission, he also delegated the necessary authority for the staff member to accomplish the mission.

c. (U) On pages 4-10 to 4-11, the G-2 was the principal staff officer for all matters concerning MI, CI, security operations, and MI training. The G-2 was responsible for: disseminating intelligence to CDRs and others in a timely manner; collecting, processing, producing, and disseminating intelligence; conducting and coordinating intelligence preparation of the battlefield (IPB), and coordinating staff input to IPB products for staff planning, decision making, and targeting; evaluating the threat; determining enemy most probable and most dangerous courses of action and key events; coordinating with the entire staff and recommending priority intelligence requirements (PIR) for the CDR's critical information requirements; coordinating with the G-3 PM for processing, for intelligence purposes) materials taken from EPWs and civilian internees; coordinating ground and aerial reconnaissance and surveillance operations with other collection assets; and, recording, evaluating, and analyzing collected information to produce all-source intelligence that answers the CDR's PIR and information requirement.

d. (U) On page 4-32, the SJA, was the CDR's personal legal advisor on all matters affecting the morale, good order, and discipline of the command. The SJA's specific responsibilities included providing legal advice to the CDR on: military law (DODD, DA regulations, and command regulations); domestic law; foreign law, status-of-forces agreements, and international law; the Law of Armed conflict (Geneva and Hague Conventions); rules of engagement; environmental laws and treaties; warfare treaties; and, the treatment of EPWs and civilian internees. (EXHIBIT C-6)

(b)(1)

[redacted]

(b)(1)

e. (U) On 14 September 2003, LTG Sanchez informed CDR, CENTCOM, unless otherwise directed, he (LTG Sanchez) intended to implement the policy immediately. (EXHIBIT C-7)

(U) [IO Note: CENTOM had no published interrogation policy. Staffing of this ICRP was at LTG Sanchez' direction.]

(b)(1)

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SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80003 (UPDATE)

9. (U) The Taguba Report stated:

a. (U) COL Pappas failed to ensure that Soldiers under his direct command were properly trained in and followed the Interrogation Rules of Engagement (IROE), knew, understood, and followed the protections afforded to detainees in the GC, and failed to properly supervise his Soldiers working and visiting Tier 1 of the hard site at AGP. (p. 45)

b. (U) LTC Jordan failed to ensure that Soldiers under his direct control were properly trained in and followed the IROE, knew, understood, and followed the protections afforded to detainees in the GC, and failed to properly supervise his Soldiers working and visiting Tier 1 of the hard site at AGP. Additionally, LTC Jordan made material misrepresentations to the Investigating Team, including his leadership role at AGP. (p. 45-46)

c. (U) There was sufficient credible information to warrant an inquiry UP Procedure 15 to determine the extent of culpability of MI personnel assigned to the 205th MI BDE and JIDC at AGP. It was specifically suspected that COL Pappas and LTC Jordan were either directly or indirectly responsible for the abuses at AGP. (p. 48) (EXHIBIT C-9)

10. (U) The DAIG Detainee Operations Inspection Report, reflected:

a. (U) On 10 February 2004, the Acting SECARMY directed DAIG to conduct an assessment of detainee operations in Afghanistan and Iraq. DAIG inspected internment, EPW, detention operations, and interrogation procedures. The inspection focused on the adequacy of doctrine, organization, training, materiel, leadership, personnel, and facilities. It was a functional analysis of the Army's conduct of detainee and interrogation operations. (p. i)

b. (U) Two teams conducted inspections at 26 locations in Iraq, Afghanistan, and in the US. They were unable to identify system failures that resulted in incidents of abuse. They found the incidents of abuse resulted from the failure of individuals to follow known standards of discipline and Army values, and in some cases, the failure of a few leaders to enforce those standards of discipline. (p. i)

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c. (U) Of all the facilities inspected, only AGP was determined to be undesirable for housing detainees because it was located near a densely populated urban area, on a dangerous main supply route (MSR), and was under frequent hostile fire, placing Soldiers and detainees at risk. (pp. ii, v)

d. (U) Officially approved CJTF-7 policies generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained Soldiers, under the full range of safeguards. However, policies were not clear and contained ambiguities. Implementation, training, and oversight of these policies was inconsistent, however, no confirmed instance of detainee abuse was caused by the approved policies. There was no direct link between the proper use of an approved approach technique and a confirmed case of detainee abuse. (p. iii)

e. (U) Doctrine did not clearly identify the interdependent, and yet independent, roles, missions, and responsibilities of MP and MI units in the establishment and operation of interrogation facilities. MP doctrine did not address approved and prohibited MI procedures in an MP operated compound, nor clearly establish the role of MPs in the interrogation process. MI doctrine did not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 35-52 implied an active role for MPs in the interrogation process. The subordination of the MP custody and control mission to the MI for intelligence could create settings in which unsanctioned behavior, including detainee abuse, could occur. (pp. v-vi)

f. (U) Shortfalls in interrogators and interpreters, and the distribution of these assets, hampered HUMINT collection efforts. Valuable intelligence may have been lost as a result. (p. vi)

g. (U) The Army's leaders and Soldiers were effectively conducting detainee operations and providing for the care and security of detainees in an intense operational environment. Based on this inspection, the inspection team was unable to identify system failures that resulted in incidents of abuse. (p. vii)

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h. (U) Tactical MI officers were not adequately trained on how to manage the full spectrum of the collection and analysis of HUMINT. MI officers only received a general overview of HUMINT during their Professional Military Education courses. During the MI Officer Basic Course (MIOBC), MI officers received a 9-day Intelligence Battlefield Operating System block of instruction which included a 6-hour block on: review/reinforcement of CI/HUMINT principles; CI organizations; Subversion and Espionage Directed Against US Army and Deliberate Security Violations (SAEDA); and the role of the tactical HUMINT teams. The MIOBC students received approximately an hour block of instruction from their SASO instructor on displaced civilians/refugees on the battlefield.) (pp. 36-37)

i. (U) MI Captain Career Course (MICCC) officers received a one-hour block of instruction in their intelligence support to BDE operations on imagery intelligence, CI/HUMINT, and signals intelligence. Additionally, during practical exercises the students received 40 hours of SASO training, 32 hours of threat training, and 2 hours of crime link training. Also, during intelligence, surveillance, and reconnaissance planning, the basic principles of CI/HUMINT were reinforced during 30 minute practical exercises that addressed imagery intelligence, CI/HUMINT, and signals intelligence being used on the battlefield to collect intelligence information. During the Intelligence Support Course to division, corps, and joint officers, there was one day of CI/HUMINT training. This training included an overview, specific training, and a practical exercise for CI/HUMINT. Additionally, the 35E series (CI Officer) course conducted 8 hours of CI/HUMINT training, and the Strategic Intelligence Officer Course conducted 5 hours of CI/HUMINT training. (p. 37)

j. (U) The Army G-2, in coordination with TRADOC, had created a G2X/S2X Battle Staff Course to begin in July 2004 for MI officers. The G2X/S2X program of instruction will be tailored for a staff operating within a Joint or multi-national (Coalition) environment. The G2X/S2X curriculum was based upon the CI/HUMINT critical tasks and incorporated J2X/G2X/S2X emerging doctrine/methodology and lessons learned. (p. 37) (EXHIBIT C-10)

11. (U) The Kern Report reflected:

a. (U) Looking beyond personal responsibility, leader responsibility and command responsibility, systemic problems and issues also contributed to the volatile environment in which the abuse occurred. These systemic problems included: inadequate interrogation doctrine and training, an acute shortage of MP and MI Soldiers, the lack of clear lines of responsibility between the MP and MI chains of command, the lack of a clear interrogation policy for the Iraq Campaign, and intense pressure felt by the personnel on the ground to produce actionable intelligence from detainees. (p. 8)

b. (U) Inadequacy of doctrine for detention operations and interrogation operations was a contributing factor to the situations that occurred at AGP. The Army's capstone doctrine for the conduct of interrogation operations was FM 34-52. Non-doctrinal approaches, techniques, and practices were developed and approved for use in Afghanistan and GTMO as part of the Global War on Terrorism (GWOT). These techniques, approaches, and practices became confused at AGP and were implemented without proper authorities or safeguards. (p. 8)

c. (U) Soldiers were not trained on non-doctrinal interrogation techniques such as sleep adjustment, isolation, and the use of dogs. Many interrogators and personnel overseeing interrogation operations at AGP had prior exposure to or experience in GTMO or Afghanistan. Concepts for the non-doctrinal, non field-manual approaches and practices came from documents and personnel in GTMO and Afghanistan. By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved. (p. 8)

d. (U) The term OGA most commonly referred to the Central Intelligence Agency (CIA). The CIA conducted unilateral and joint interrogation operations at AGP. The CIA's detention and interrogation practices contributed to a loss of accountability and abuse at AGP. No memorandum of understanding (MOU) existed on the subject of interrogation operations between the CIA and CJTF-7, and local CIA officers convinced military leaders that they should be allowed to operate outside the established local rules and procedures. CIA detainees in AGP, known locally as "Ghost Detainees," were not accounted for in the detention system. With these detainees unidentified or unaccounted for, detention operations at large were impacted because personnel at the operations level were uncertain how to report or classify detainees. (p. 9)

e. (U) As the need for actionable intelligence rose, the realization dawned that pre-war planning had not included planning for detainee operations. Believing that FM 34-52 was not sufficiently or doctrinally clear for the situation in Iraq, CJTF-7 staff sought to synchronize detainee operations, which ultimately resulted in a methodology and structure derived from the GTMO system as presented by MG G. Miller. At the same time, LTG Sanchez directed that an interrogation policy be established that would address "permissible techniques and safeguards for interrogators" for use in Iraq. The CJTF-7 staff relied heavily on the series of SOPs which MG G. Miller provided to develop not only the structure, but also the interrogation policies for detainee operations. (p. 24)

f. (U) On 10 September 2003, COL Marc L. Warren, SJA, CJTF-7, tasked CPT (b)(6)-2 & [redacted] 205th MI BDE, to work with CJTF-7 OSJA staff officers to produce a set of interrogation rules. The draft policy went to the C-2, C-3, and the CDR, 205th MI BDE. Between 10 and 14 September 2003, the OSJA changed the 10 September 2003 memo to reflect the addition of the techniques that were not included in the GTMO policy; i.e., the use of dogs, stress positions, and yelling, loud music, and light control. Upon the guidance and recommendation of the SJA staff, it was decided that LTG Sanchez would approve the use of those additional methods on a case-by-case basis. (p.25)

(U) [IO Note: MG Fast was out of theater from 6 to 15 September 2003. During the inquiry there was no evidence that indicated that she received a copy of the draft policy.]

(b)(1) [redacted]

(U) [IO Note: It was within LTG Sanchez' authority to place limits on CJTF-7 interrogation operations.]

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j. (U) This 12 October 2003 memorandum, intended by CJTF-7 SJA staff to be clear, succinct, and understandable at all levels, confused doctrine and policy even further. By mid-October, interrogation policy in Iraq had changed three times in less than 30 days. Various versions of each draft and policy were circulated among AGP, 205th MI BDE, CJTF-7 C2, and CJTF-7 SJA. Anecdotal evidence suggests that personnel were confused about the approved policy from as early as 14 September 2003. The SJA believed that the 14 September 2003 policy was not to be implemented until CENTCOM approved it. Meanwhile, interrogators at AGP began operating under it immediately. It was not always clear to JIDC officers what approaches required LTG Sanchez' approval, nor was the level of approval consistent with requirements in other commands. Interrogators, with their section leaders' knowledge, routinely utilized approaches/techniques without obtaining the required authority, indicating confusion at a minimum of two levels of supervision. (pp. 27-29)

k. (U) Beginning in July 2003, demands placed upon interrogation operations were growing rapidly from both the tactical CDRs as well as from the CJTF-7. The 205th MI BDE had the missions of providing Tactical HUMINT teams to forward deployed combat forces as well as operating a JIDC. The 205th MI BDE had no organic interrogation capability. Those assets were eliminated from the active force structure during the down-sizing of the Army in the 1990's. The interrogation assets available to COL Pappas when he first took command were A/519th MI BN and the interrogation sections from two USAR MI BNs. (p. 32)

l. (U) The idea for the creation of the JIDC came about after a number of briefings and meetings, held from mid-August to early September 2003, among LTG Sanchez, MG Fast, COL Pappas, and COL (b)(7)(C) Deputy C-2, CJTF-7. Additionally, MG G. Miller's discussions with CJTF personnel and the 205th MI BDE influenced the decision to create a JIDC. The objective was to enhance the interrogation process with a view toward producing better, timelier, actionable intelligence. (p. 41)

m. (U) On 6 September 2003, COL Pappas briefed LTG Sanchez on a plan to improve interrogation operations and LTG Sanchez approved the concept and directed COL Pappas to accelerate all aspects of the plan. The decision established the JIDC and modified previous interrogation operations at AGP. COL Pappas decided not to make the JIDC a battalion (BN) operation and thereby did not place one of his BN CDRs in charge. On 17 September 2003, LTC Jordan became the Director, JIDC, and the re-organization of the JIDC occurred in the late September to October 2003 timeframe. (pp. 41-42)

n. (U) The JIDC, a non-doctrinal organization, initially did not have a JMD. There was no approved structure for the JIDC. The JMD was created as the JIDC was already operating. Because there was no JIDC doctrine, procedures were ad hoc and adapted from FM 34-52 where possible. (p. 42)

(U) [IO Note: Although mentioned in joint doctrine, the structure or manning of the JIDC was not addressed. Additionally, the concept of the JIDC was not addressed in Army doctrine.]

o. (U) LTC Jordan became fascinated with OGA and allowed them to do interrogations without the presence of Army personnel. JIDC policy was that an Army interrogator had to accompany OGA if they were interrogating one of the detainees MI was also interrogating. The lack of OGA adherence to the practices and procedures established for accounting for detainees eroded the necessity in the minds of Soldiers and civilians for them to follow Army rules. (p. 45)

p. (U) AGP rapidly evolved from a tactical interrogation operation in July 2003 to a JIDC beginning in September 2003. Doctrine, SOPs, and other tactics, techniques, and procedures (TTPs) for a JIDC were initially non-existent. The personnel manning the JIDC came from numerous units, backgrounds, and experiences. Equipment such as computers, software, IT infrastructure, and connectivity to relevant intelligence data bases was very limited. (p. 47)

q. (U) AGP personnel were unable to respond to requests for information about CIA detainees from higher HQs. It was unclear how and under what authority the CIA could place prisoners in AGP because no MOUs existed on the subject between the CIA and CJTF-7. Local CIA officers convinced COL Pappas and LTC Jordan that they should be allowed to operate outside the established local rules and procedures. When COL Pappas raised the issue of CIA use of AGP, COL (b)(7)(C) encouraged him to cooperate with the CIA. (pp. 53-54)

r. (U) OGA never provided to the CDR, CJTF-7, the results of their abuse investigation regarding an OGA detainee that died at AGP. This resulted in a total lack of visibility over OGA interaction with detainees held in CJTF-7 spaces. Additionally, the CJTF-7 charter provided no oversight or control over the Iraqi Survey Group (ISG). LTG Sanchez could neither leverage ISG interrogation assets to assist the detainee operations in AGP nor could he compel ISG to share substantive intelligence reports with CJTF-7. (p. 55)

s. (U) In September 2003, COL Pappas began visiting AGP two or three times per week as opposed to once every week or two. He was also beginning to stay overnight. His visit schedule coincided with the increased emphasis being placed on interrogation operations and the newly formed JIDC. (p. 55)

t. (U) The JIDC was manned with personnel from numerous organizations and consequently lacked unit cohesion. There was an absence of an established, effective MI chain of command at the JIDC. The decision was made not to run the JIDC as a unit mission. The JIDC was manned, led and managed by staff officers from multiple organizations as opposed to a unit with its functioning chain of command. Responsibilities for balancing the demands of managing interrogation operations and establishing good order and discipline in this environment were unclear and lead to lapses in accountability. The JIDC needed to be structured, manned, trained and equipped as a standard military organization. These organizations should be certified by Training and Doctrine Command (TRADOC) and/or Joint Forces Command (JFCOM). Appropriate Army and Joint doctrine should be developed defining JIDC's missions and functions as separate commands. (pp. 110-111)

u. (U) Leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Leaders within the MI community commented upon the intense pressure they felt from higher headquarters, to include CENTCOM, the Pentagon, and Defense Intelligence Agency (DIA), for timelier, actionable intelligence. These leaders stated that this pressure adversely affected their decision making. Requests for information were being sent to AGP from a number of headquarters, without any prioritization. Based on statements from the interrogators and analysts, the pressure was allowed to be passed down to the lowest levels. Protecting Soldiers from unnecessary pressure to enhance mission effectiveness was a leader's job. (pp. 111-112)

(U) [IO Note: LTG Jones and MG Fay both testified that the MI leaders referred to were COL Pappas and the leadership within the 205th MI BDE.]

v. (U) The JIDC was not provided with adequate personnel resources to effectively operate as an interrogation center. The JIDC was established in an ad hoc manner without proper planning, personnel, and logistical support for the missions it was intended to perform. Interrogation and analyst personnel were quickly formed together from a half dozen units in an effort to meet personnel requirements. Even at its peak strength, interrogation and analyst manpower at the JIDC was too shorthanded to deal with the large number of detainees at hand. The Army and DOD should plan on operating JIDC organizations in future operational environments; and establish appropriate manning and equipment authorizations for the same. (p. 113)

w. (U) MI leaders did not receive adequate training in the conduct and management of interrogation operations. MI leaders at the JIDC were unfamiliar with and untrained in interrogation operations as well as the mission and purposes of a JIDC. Absent any knowledge from training and experience in interrogation operations, JIDC leaders had to rely upon instinct to operate the JIDC. MTTs and Tiger Teams were deployed to the JIDC as a solution to help train interrogators and leaders in the management of HUMINT and interrogation operations. (p. 115)

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x. (U) There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits. ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. DOD should review current policy concerning ICRC visits and establish procedures whereby findings and recommendations by the ICRC were investigated. (p. 119) (EXHIBIT C-11)

12. (U) The Unclassified EXSUM of the Kern Report reflected:

a. (U) From the time V Corps transitioned to become CJTF-7, and throughout the period under investigation, it was not resourced adequately to accomplish the missions of the CJTF: stability and support operations (SASO) and support to the CPA. The CJTF-7 headquarters lacked adequate personnel and equipment. The MP and MI units at AGP were severely under-resourced. Providing support to the CPA required greater resources than envisioned in OPLANS. The OPLANs envisioned the CJTF-7 would execute SASO and provide support to the CPA in a relatively non-hostile environment. In fact, opposition was robust and hostilities continued throughout the period under investigation. CJTF-7 had to conduct tactical counter-insurgency operations, while also executing its planned missions.

b. (U) When hostilities were declared over, US forces had control of only 600 Enemy Prisoners of War (EPW) and Iraqi criminals. In the fall of 2003, the number of detainees rose exponentially due to tactical operations to capture "counter-insurgents" (sic. Insurgents) dangerous to US forces and Iraqi civilians.

c. (U) Command and staff actions and inaction must be understood in the context of the operational environment. CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, thereby saving Coalition and civilian Iraqi lives and assisting in the transition to Iraqi self-rule. In the over all scheme of OIF, the CJTF-7 CDR and staff performed above expectations.

d. (U) LTG Jones found that while senior level officers did not commit the abuse at AGP they did bear responsibility for lack of oversight of the facility, failing to respond in a timely manner to the reports from the ICRC and for issuing policy memorandums that failed to provide clear, consistent guidance for execution at the tactical level.

e. (U) MG Fay found that twenty-seven of the 205th MI BDE personnel allegedly requested, encouraged, condoned or solicited MP personnel to abuse detainees and/or participated in detainee abuse and/or violated established interrogation procedures and applicable laws and regulations during interrogation operations at AGP.

f. (U) Most of the violent or sexual abuses occurred separately from scheduled interrogations and did not focus on persons held for intelligence purposes. No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. In these cases, Soldiers knew they were violating the approved techniques and procedures.

g. (U) The leaders of the 205th MI BDE and the 800th MP BDE failed to supervise subordinates, provide direct oversight of the mission, or properly discipline their Soldiers. The 205th MI BDE CDR did not assign a specific subordinate unit to be responsible for interrogations at AGP and did not ensure that a MI chain of command was established. The absence of effective leadership was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and misinterpretation/confusion incidents.

h. (U) DOD and Army doctrine did not cause any abuse. Abuses would not have occurred had doctrine been followed and mission training conducted. Certain facets of interrogation and detention doctrine need to be updated, refined or expanded, including the concept, organization, and operations of a Joint Interrogation and Debriefing Center (JIDC); guidance for interrogation techniques at both tactical and strategic levels; the roles, responsibilities and relationships between MP and MI personnel at detention facilities; and the establishment and organization of a JTF structure and in particular, its intelligence architecture.

i. (U) Working alongside non-DOD organizations/agencies in detention facilities proved complex and demanding. The perception that non-DOD agencies had different rules regarding interrogation and detention operations was evident. (EXHIBIT C-12)

13. (U) The Jones Report reflected:

a. (U) The chain of command directly above the 205th MI BDE was not directly involved in the abuses at AGP. Policy memoranda promulgated by the CJTF-7 CDR led indirectly to some of the non-violent and non-sexual abuses. The CJTF-7 CDR and Deputy CDR failed to ensure proper staff oversight of detention and interrogation operations. The CJTF-7 staff elements reacted inadequately to earlier indications and warnings that problems existed at AGP. (p. 4)

b. (U) No policy, directive or doctrine directly or indirectly caused violent or sexual abuse. Confusion about what interrogation techniques were authorized resulted from the proliferation of guidance and information from other theaters of operation; individual interrogator experiences in other theaters; and, the failure to distinguish between interrogation operations in other theaters and Iraq. This confusion contributed to the occurrence of some of the non-violent and non-sexual abuses. (p. 5)

c. (U) DOD and Army doctrine did not cause any abuses. Abuses would not have occurred had doctrine been followed and mission training conducted. Certain facets of interrogation and detention operations doctrine needed to be updated, refined or expanded including guidance for interrogation techniques at both tactical and strategic levels. (p. 5)

d. (U) Although the JMD was properly staffed and approved, personnel and equipment shortages impacted on CJTF-7's ability to execute the mission and remained a critical issue. (p. 9)

e. (U) MG Fast was tasked to do an initial assessment of the intelligence architecture needed to execute the CJTF-7 mission in Iraq. Technical intelligence collection means alone were insufficient. Only through an aggressive structure of HUMINT collection and analysis could the requisite information be obtained. Communications equipment, computers, and access to sufficient bandwidth to allow reachback capabilities to national databases were needed to assist in the fusion and collaboration of tactical through strategic intelligence data. Following MG Fast's initial assessment and report to CENTCOM HQs, changes began to take place to put the right architecture in place. An Intelligence Fusion Cell (IFC) was established, as were a Joint Inter-Agency Task Force and an expanded JC2X HUMINT Management Cell. (p. 11)

f. (U) The subsequent successes of this new intelligence architecture created by MG Fast and her team exponentially improved the intelligence process and saved the lives of Coalition Forces and Iraqi civilians. HUMINT operations and the fusion of intelligence led to the capture of key members of the former regime, and to the capture of Saddam Hussein. During the time period of the AGP abuses, the intelligence focus was on Saddam Hussein's capture and exploitation of documents related to Saddam

Hussein, preparation for Ramadan, and large scale enemy activity at Fallujah and Najaf. There were also efforts to expand the intelligence organization, obtain operational intelligence about the counter-insurgency, and support the CPA, all of which consumed the efforts of the CJTF-7 staff. This resulted in responsibilities for oversight of tactical interrogation procedures, intelligence analysis, and reporting at AGP as well as throughout the ITO, being entrusted to the CDRs in the field. (p. 11)

g. (U) MG Fast's initial assessment and report on the intelligence organization and the needed systems architecture to support the mission was invaluable in establishing a roadmap for needed intelligence resources. (p. 12)

h. (U) In accordance with JP 2-01, the use of a JIDC by a JTF was situation dependent. No defined organization existed for implementing the JIDC concept. The JIDC at AGP was established based on MG G. Miller's recommendation during his assessment. LTC Jordan was sent to AGP to oversee the establishment of the JIDC. On 19 November 2003, when COL Pappas assumed duties as the Forward Operating Base (FOB) CDR, he directed the activities, and LTC Jordan became the deputy director. There were conflicting statements regarding who had the responsibilities to implement and oversee the JIDC. MG Fast, through her CJ2X staff, provided priority intelligence requirements for the interrogators and analysts in the JIDC. The JMD earmarked 169 personnel for the interrogation operations and analysis cells in the JIDC. Although a senior officer was directed to be the Chief, JIDC, the establishment and efficient operation of the JIDC was further complicated by the lack of an organizational MI unit and chain of command at AGP for MI personnel and intelligence operations. (p. 13)

i. (U) The lack of an MI CDR and chain of command precluded the coordination needed for effective operation at AGP. LTC Jordan failed to execute his responsibilities as Chief, JIDC. (p. 13)

j. (U) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and limits of authority of interrogation techniques were dispersed among the principal and special staff. MG Wojdakowski had direct responsibility and oversight of the separate BDEs. Priorities for intelligence collection, analysis and fusion were the responsibility of MG Fast. LTG Sanchez used his SJA to advise him on the limits of authority for interrogation and compliance with the GC for the policy memorandums published. (p. 14)

k. (U) DOD wide, formal written policies for interrogation techniques were prescribed by various levels of command and authority. During the period under investigation there was confusing and sometimes conflicting guidance resulting from the number of policy memorandums and the specific areas of operation the various policies were intended to cover. Each theater's techniques for interrogation and counter-resistance were reviewed by appropriate legal authorities and subjected to external assessments before CDRs were advised of their acceptability. (p. 14)

l. (U) Initially, no theater specific guidance on approved interrogation techniques was published by CJTF-7 for the ITO. LTG Sanchez reemphasized the limits of authority for interrogations in his 14 September and 12 October 2003 policy memorandums. The first memorandum was rescinded, and the second addressed only security detainees and inadvertently left certain issues for interpretation: the responsibility for clothing detainees, the use of dogs in interrogation, and applicability of techniques to detainees who were not categorized as "security detainees." Some MI personnel executing their interrogation duties at AGP previously served as interrogators in other theaters of operation, primarily Afghanistan and GTMO. These prior interrogation experiences complicated understanding at the interrogator level. The clear thread in the CJTF-7 policy memorandums and published doctrine was the humane treatment of detainees and the applicability of the GC. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (pp. 14-15)

m. (U) Inaction at the CJTF-7 staff level could have also contributed to the failure to discover and prevent abuses before January 2004. There was sufficient evidence to reasonably believe that personnel in the CJTF-7 staff, principally in the OSJA and CJ2X had knowledge of potential abuses and misconduct at AGP. Had the pace of combat operations and support to the CPA not been so overwhelming, the CJTF-7 staff may have provided additional oversight to interrogation operations at AGP. The CDR, CJTF-7, had to prioritize efforts and CJTF-7, by necessity, devoted its resources to fighting the counter-insurgency and supporting the CPA. LTG Sanchez and MG Wojdakowski relied on BG Karpinski and COL Pappas to run detention and interrogation operations at AGP. The CJTF-7 staff did everything they could have reasonably been expected to do to successfully complete their entire assigned mission. (p. 17)

n. (U) The leadership failure at BDE level and below was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents. Interrogation operations were plagued by a lack of an organizational chain of command presence and by a lack of proper actions to establish standards and training by the senior leaders present. The leaders from the 205th MI BDE and the 800th MP BDE failed to supervise subordinates or provide direct oversight of the mission. There was a lack of command presence, particularly at night. The 205th MI BDE CDR did not specifically assign responsibility for interrogation operations to a specific subordinate MI unit at AGP, and did not ensure that a chain of command for the interrogation operations mission was established. The presence of a clear MI chain of command and associated responsibilities would have enhanced effective operations. The leaders from the 205th MI BDE and the 800th MP BDE failed to properly discipline their Soldiers and failed to develop and learn from After Action Reports (AARs) and lessons learned. These leaders failed to provide adequate mission-specific training to execute a mission of this magnitude and complexity. (p. 17)

o. (U) The lack of clear and consistent guidance, promulgated at the CJTF level on interrogation procedures, coupled with the availability of information on counter-resistance techniques used in other theaters was a contributing factor to abuse at AGP. (p. 18)

p. (U) A review of different theaters' interrogation technique policies revealed the need for clear guidance for interrogation techniques at both the tactical and strategic levels. In each theater, CDRs were seeking guidance and information on the applicability of the articles of the GC to specific population sets and on what techniques could be used to improve intelligence production and remain within the limits of lawful authorities. (pp. 21-22)

q. (U) At AGP the lack of consistent policy and command oversight regarding interrogation techniques, coupled with changing policies, contributed to the confusion concerning which techniques could be used, which required higher level approval, and what limits applied to permitted techniques. Initially, CJTF-7 had no theater specific guidance other than the basic FMs. Policies for interrogation techniques including policies for counter-resistance techniques were provided for different theaters of operation. Some interrogators conducting operations at AGP had experience in different theaters and used their experiences to develop procedures at AGP. (p. 22)

r. (U) When policies, SOPs, or doctrine were available, Soldiers were inconsistently following them. "Confusion over policies contributed to some of the non-violent and non-sexual abuses. There was a need, therefore, to further refine interrogation techniques and limits of authority at the tactical versus the strategic level, and between Soldiers and other agency personnel. (p. 22)

s. (U) V Corps personnel, to include CDRs and staff, were not trained to execute a JTF mission. The transition from major combat operations to a HQs focused on SASO and support to the CPA was a major transition for which the unit did not have time to train or prepare. (p. 22)

t. (U) The chain of command above the 205th MI BDE was not directly involved in any abuses that occurred at AGP. The CJTF-7 CDR and staff performed above expectations in the overall scheme of OIF. (p. 24) (EXHIBIT C-13)

14. (U) The Fay Report reflected:

a. (U) The idea for the creation of the JIDC came after a number of briefings and meetings were held among LTG Sanchez, MG Fast, COL Pappas, and COL (b)(6)-2 & (b)(7)(C)-2 These meetings and briefings occurred from mid-August to 9 September 2003. On 6 September 2003, COL Pappas briefed the plan to improve interrogation operations. LTG Sanchez approved the concept and directed COL Pappas to accelerate all aspects of the plan. This decision established the JIDC and modified previous interrogation operations at AGP. COL Pappas decided, when standing up the JIDC, not to make it a BN operation, therefore deciding not to place one of his BN CDRs in charge of the JIDC, but instead relied upon staff personnel to manage the entire operation. COL Pappas requested a LTC to run the JIDC, and since LTC Jordan, an incoming C-2 officer, was excess, COL (b)(6)-2 & (b)(7)(C)-2 assigned him to AGP to run the JIDC. On 17 September 2003, LTC Jordan became the Director, JIDC. (pp. 41-43)

b. (U) The preponderance of evidence supported that LTC Jordan was assigned to run the JIDC. 205th MI BDE staff officers were adamant that LTC Jordan was sent to run the JIDC. LTC Jordan acted as if he were in charge in all but one important aspect, interrogation operations. LTC Jordan left the actual management, organization, and leadership of the core of his responsibilities to subordinate officers. (pp. 43-44)

c. (U) The JIDC needed a trained, experienced MI LTC to take total control and get the JIDC organized, to set standards, enforce discipline, create checks and balances, establish quality controls, communicate a zero tolerance for abuse of detainees, and enforce that policy by quickly and efficiently punishing offenders. (p. 44)

d. (U) LTC Jordan allowed OGA to do interrogations without the presence of Army personnel. JIDC policy was that an Army interrogator had to accompany OGA if they were interrogating one of the detainees MI was also interrogating. Although LTC Jordan was only a little involved in the interrogation operations, he did become involved with OGA and this did not help the situation. (p. 44)

e. (U) Shortly after LTC Jordan's arrival at the JIDC, the 205th MI BDE staff began to note LTC Jordan's involvement in staff issues and his lack of involvement in interrogation operations. COL Pappas knew LTC Jordan was not who was needed to fulfill the JIDC functions early on, but nevertheless chose to see if LTC Jordan could work out over time. COL Pappas made more frequent visits during this time, both because he was receiving increasing pressure for results, but also because he could not rely on LTC Jordan to run the operation. (pp. 45-46)

f. (U) The systemic lack of accountability for interrogation actions and detainees plagued detainee operations in AGP. It was unclear how and under what authority the CIA could place prisoners in AGP, because no MOU existed between the CIA and CJTF-7. Local CIA officers convinced COL Pappas and LTC Jordan they should be allowed to operate outside the established local rules and procedures. When COL Pappas raised the issue of CIA use of AGP with COL (b)(6)-2 & (b)(7)(C)-, COL (b)(6)-2 & (b)(7)(C)-2 encouraged COL Pappas to cooperate with the CIA. (p. 54)

g. (U) From 27 July 2003 to 6 February 2004, twenty-seven 205th MI BDE personnel allegedly violated established interrogation procedures and applicable laws and regulations as preparation for interrogation operations at AGP. While ICRP were poorly defined and changed several times, in most cases of detainee abuse the MI personnel involved knew or should have known what they were doing was outside the bounds of their authority. Ineffective leadership at the JIDC failed to detect violations and discipline those responsible, and failed to provide adequate training to ensure Soldiers understood the rules and complied. (p. 109)

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h. (U) DOD's development of multiple policies on interrogation operations for use in different theater or operations confused Army and civilian interrogators at AGP. National policy and DOD directives were not completely consistent with Army doctrine concerning detainee treatment or interrogation tactics, resulting in CJTF-7 ICRPs and practices that lacked basis in Army interrogation doctrine. As a result, interrogators at AGP employed non-doctrinal approaches that conflicted with other DOD and Army regulatory, doctrinal and procedural guidance. (pp. 112-113)

i. (U) OGA interrogation practices led to a loss of accountability at AGP. Lack of military control over OGA interrogator actions or lack of systemic accountability for detainees plagued detainee operations in AGP. The Army allowed CIA to house "Ghost Detainees" who were unidentified and unaccounted for in AGP. Additionally, the treatment and interrogation of OGA detainees occurred under different practices and procedures which were absent of any DOD visibility, control, or oversight. (p. 118)

j. (U) COL Pappas failed to properly organize the JIDC, put the necessary checks and balances in place to prevent and detect abuses, to ensure that his Soldiers and civilians were properly trained for the mission; showed poor judgment by leaving LTC Jordan in charge of the JIDC; improperly authorized the use of dogs during interrogations and failed to ensure the dogs were muzzled after he improperly permitted their use; failed to properly communicate to higher headquarters when his BDE would be unable to accomplish its mission due to lack of manpower and/or resources; and, allowed his Soldiers and civilians at the JIDC to be subjected to inordinate pressure from higher headquarters. (p. 120)

k. (U) LTC Jordan failed to properly train Soldiers and civilians on the ICRP; failed to take full responsibility for his role as the Director, JIDC; failed to establish the necessary checks and balances to prevent and detect abuses; failed to prevent the unauthorized use of dogs and the humiliation of detainees who were kept naked for no acceptable purpose; and, failed to accurately and timely relay critical information to COL Pappas. LTC Jordan was deceitful during the investigation, as well as during MG Taguba's investigation. His recollection of facts, statements, and incidents were always recounted to avoid blame or responsibility, and his version of events frequently diverged from most others. (p. 121) (EXHIBIT C-14)

15. (U) The Schlesinger Report stated:

a. (U) On 14 September 2003, LTG Sanchez signed a policy memorandum authorizing a dozen interrogation techniques beyond FM 34-52. The CJTF-7 CDR, on the advice of his SJA, believed he had the inherent authority of the CDR in a theater of war to promulgate such a policy and make determinations as to the categorization of detainees under the GC. CENTCOM viewed the CJTF-7 policy as unacceptably aggressive and on 12 October 2003, CDR CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in FM 34-52. The policy memorandums allowed for interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned. (pp. 9-10)

b. (U) Interrogation policies were inadequate or deficient in some respects at three levels: DOD, CENTCOM/CJTF-7, and AGP. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. The changes in DOD interrogation policies between 2 December 2002 and 16 April 2003 contributed to uncertainties in the field as to which techniques were authorized. (p. 14)

c. (U) The weak and ineffectual leadership of the CG, 800th MP BDE and the CDR, 205th MI BDE allowed the abuses at AGP. The CDRs of both BDEs either knew, or should have known, abuses were taking place and taken measures to prevent them. There was no evidence that organizations above these BDEs were directly involved in the incidents at AGP. (p. 43)

d. (U) The Schlesinger panel agreed with MG Taguba's conclusion that the Director, JIDC made material misrepresentations to MG Taguba's investigating team, and failed to properly train and control his Soldiers, and failed to ensure prisoners were afforded the protections under the relevant GC. (p. 44)

e. (U) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. At the same time, intelligence personnel at AGP reported through the C-2, CJTF-7. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP. (p. 45)

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f. (U) The creation of the JIDC at AGP was not an unusual organizational approach. The DAIG assessment revealed that joint doctrine for the conduct of interrogation operations contained inconsistent guidance, particularly with regard to addressing the issue of the appropriate command relationships governing the operation of such a organization. CJTF-7 failed to develop an effective command relationship for the JIDC. (p. 46)

g. (U) Staff oversight of detention and interrogation operations for CJTF-7 was dispersed among the principal and special staff. The lack of one person on the staff to oversee detention operations and facilities complicated effective and efficient coordination among the staff. (p. 46)

h. (U) The C-2, CJTF-7, failed to advise the CDR properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of OGA. (p. 47)

i. (U) A number of visits by high-level officials to AGP contributed to the perceived pressure to produce actionable intelligence. Both the CG, CJTF-7, and the C-2, CJTF-7, visited AGP on several occasions. Despite the number of visits and the intensity of interest in actionable intelligence, no undue pressure was exerted by senior officials, although their eagerness for intelligence could have been perceived by interrogators as pressure. (pp. 65-66)

j. (U) Neither the leadership nor the organization of MI at AGP was prepared for the mission. The 205th MI BDE had no organic interrogation elements, and Reserve Soldiers filled needed positions. The creation of the JIDC introduced a layer of complexity into an already stressed interrogations environment. The JIDC was an ad hoc organization made up of six different units lacking the normal command and control structure. The CDR, 205th MI BDE failed to ensure his Soldiers were properly trained and followed the Interrogation Rules of Engagement (IROE). The Director, JIDC, was a weak leader who did not have experience in interrogation operations and who ceded the core of his responsibilities to his subordinates. He failed to provide appropriate training and supervision of personnel assigned to JIDC. These leaders did not establish the basic standards and accountability that might had prevented the abusive behaviors. (pp. 67-68)

k. (U) CJTF-7's 14 September 2003 policy memorandum allowed military working dogs to be used as an interrogation technique when approved by the CG, CJTF-7. This authorization was updated by the 12 October 2003 policy which allowed the presence of dogs during interrogation as long as they were muzzled and under control of the handler but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations. (p. 77) (EXHIBIT C-15)

l. (U) COL(R) (b)(6)-2 & (b)(7)(C)-2 notes for his verbal outbrief to MG Fast, on or about 10 December 2003, regarding CI-HUMINT Evaluation Visit, reflected:

(U) [IO Note: COL (b)(6)-2 & (b)(7)(C)-2 notes were handwritten and mainly consisted of bullet statements.]

m. (U) Part I was Detainee Exploitation. AGP was over capacity. "3,800 people I have no intention of debriefing." The MP's were overextended. The MI was understaffed and under equipped. The facilities were primitive and dirty. The security was poor, Iraqi Police. Morale was not as low as expected and this was attributed to the mettle and spirit of the Soldiers. COL Pappas was short analysts and was not forthcoming. Part II was Treatment (Mistreatment). Part III was Insurgency. Part IV was C2X. Passive and desk-bound.

n. (U) Detainee Operation Recommendation. Revise and standardize detention criteria for Army divisions. Streamline Release Procedures. Immediately plus up MP and MI personnel, consider contracting security. Have COL Pappas and LTC Jordan provide priority list of requirements. Review MOS utilization. ISG should provide a reports officer to AGP. Request three GTMO assistance teams. C2 should visit AGP. C2X develop a top 25 or 50 list, review population on MI holds and release all who did not fit the category. (EXHIBIT C-16)

(b)(1)

16. (U) Report of CI-HUMINT Evaluation Visit, the (b)(6)-2 & (b)(7)(C)-2 Report, dated 12 December 2003, to MG Fast, reflected:

a. (U) From 2 through 9 December 2003, COL (b)(6)-2 & (b)(7)(C)-2 evaluated the CI and HUMINT operations in Iraq.

b. (U) The conditions at AGP were austere, with JIDC personnel complaining of shortages of essential supplies and equipment, including computers, paper, electrical power, linguists, reports officer, vehicles to transport detainees, hand held radios and analyst notebook software. The number of detainees arriving each week exceeded the release rate of detainees.

c. (U) Due to the limits imposed by the facility at AGP and the number of detainees, key principles of detainee exploitation were not followed. Detainees were able to communicate with one another, with many living in community conditions, which enabled them to share ideas on how to cope with interrogations, to organize themselves, and to intimidate fellow detainees. Living conditions for detainees in the tents and those in the prison cells were severe, limiting the options of debriefers. No evidence of detainees being illegally or improperly treated was observed or heard of.

d. (U) There was good cooperation with OGA. When OGA expressed an interest in a detainee, JIDC personnel cooperated in providing access. On occasion, to preserve possible operational utilization of a detainee for OGA, a number was not assigned to the detainee, which created a "ghost detainee," a detainee that was not in the accounting system, and therefore did not exist. This practice carried with it certain risks, not the least of which was that it could be technically illegal or in violation of policy. The C2X should address this issue and develop a solution that both complied with regulations and the law yet permitted the kind of latitude necessary for special exploitation or utilization of a detainee.

e. (U) JIDC personnel were doing the best they could under difficult conditions, and in spite of the conditions, had obtained and reported significant information from detainees. The facility was the equivalent of a Corps level interrogation cage that simply could not be used for sophisticated exploitation of higher level detainees. It was understood that the higher level capability existed at the ISG. After visiting the ISG it

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was sensed that the ISG facility did not lend itself to the sophisticated exploitation of the level of detainees it housed.

b)(1) [redacted]

(U) [IO Note: MG Dayton was the Director, ISG, from June 2003 to June 2004.]

17. (U) An unclassified memorandum for record, dated 26 November 2003, subject: Allegation of Mistreatment of EPW, by COL b)(6)-2 & (b)(7)(C)-2 [redacted] reflected:

(U) [IO Note: COL b)(6)-2 & b)(7)(C)-2 [redacted] provided this memorandum to MG Fast on or about 10 December 2003, and to LTG Alexander on 13 December 2003.]

b)(1) [redacted]

b)(1) [redacted]

b. (U) Mr. b)(6)-2 & b)(7)(C)-2 [redacted] indicated that the mistreatment was not occurring at the ISG JIDC but was happening during the 72 hours the capturing unit had before turning the detainee over to the JIDC. Additionally, detainees who were checked out of the

ISG JIDC were taken to another location where mistreatment occurred. Mr. (b)(6)-2&(b)(7)(C)-2 did not witness abuse but observed the results of abuse. Mr. (b)(6)-2&(b)(7)(C)-2 tried unsuccessfully to stop the mistreatment.

c. (U) Mr. (b)(6)-2&(b)(7)(C)-2 complained to MG Dayton, and believed MG Dayton brought the matter to the attention of the Chief of Staff, CENTCOM, and Commander In Chief, CENTCOM (CINCCENT). (EXHIBIT C-18)

18. (U) In a DA Form 2823, Sworn Statement, from the Taguba Report, dated 11 February 2004, COL Pappas stated:

a. (U) The JIDC through the 205th MI BDE was charged with executing interrogations at the FOB. The CDR, CJTF-7 set forth the operating parameters of the JIDC. The FOB existed to house detainees and facilitate interrogations. There were three basic components of detainee operations: detention, interrogation, and release. Staff supervision of these functions was provided by the Provost Marshal, the C-2, and the SJA. The split responsibility for detainee operations increased the pressure at lower levels and blurred lines of responsibility.

b. (U) Policy and procedures established by the JIDC relative to detainee operations were enacted as the result of a visit by MG G. Miller. MG G. Miller focused on four key areas: intelligence integration, synchronization and fusion, interrogation, and detention operations. Key findings were to develop a set of rules and limitations to guide interrogations, and provide dedicated MPs to support interrogations. As a result of MG G. Miller's visit, the JIDC was formed.

c. (U) Basic rules for interrogation operations were contained in FM 34-52. The standards for the conduct of interrogations were outlined in CJTF-7 CG's memorandum dated 5 October 2003, Subject: CJTF-7 ICRP. These rules provided the left and right limits for interrogators.

(U) [IO Note: The memorandum COL Pappas was referring to was dated 12 October 2003.]

d. (U) Despite the articulation of clear rules, there were two violations of these standards prior to him assuming command of the FOB. The first incident was reported to him (COL Pappas) in early October 2003 by the MPs. The incident involved three

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interrogations. These three Soldiers were removed from their interrogation positions and he referred the allegations to CID for investigation. CID was unable to prove that detainee abuse occurred, however, the investigation showed that interrogators failed to follow established procedures. He administered Article 15s on the three Soldiers. The second incident was reported to him by LTC Jordan. The Soldier was removed from interrogation duties and remanded to LTC Jordan for additional training.

e. (U) After the first allegations of abuse, the JIDC leadership implemented a more aggressive policy to ensure personnel were aware of all the limitations surrounding interrogation operations. All Soldiers conducting interrogations were required to sign a memorandum indicating they understood the rules and agreed to abide by them. All personnel prior to working at AGP attended training to familiarize them with the facility and the operations.

f. (U) The CJTF-7 SJA had the lead in facilitating visits by the ICRC. (EXHIBIT C-19)

19. (U) In a Sworn Statement from the Fay Report, dated 14 May 2004, COL Pappas stated:

a. (U) In mid to late July 2003 he provided LTG Sanchez a briefing on how the BDE conducted interrogation operations. LTG Sanchez was not satisfied that the CJTF-7 was getting information from interrogations that could be turned into actionable intelligence. During the briefing LTG Sanchez directed the BDE to establish an interrogation site to exploit actionable intelligence. He directed the 519th MI BN to establish operations at AGP. During the initial phases of the operation the 519th had a field grade officer on site, but eventually left the mission to CPT (b)(6)-2 & (b)(7)(C)-2 an experienced interrogator. The operation was not as successful as was planned. LTG Sanchez was dissatisfied with the information collected and directed the BDE to link up with MG G. Miller during his assessment visit, 31 August to 9 September 2003.

b. (U) On 11 September 2003, LTG Sanchez asked him his plan to implement MG G. Miller's recommendations. He showed LTG Sanchez the initial design for a JIDC and explained how he would resource it. LTG Sanchez told him to draft a request for forces (RFF) to assist in resourcing the JIDC. The 205th MI BDE was given the mission to stand up the JIDC.

c. (U) The RFF was completed in concert with the C-2 and C-3 staff and was passed on within 72 hours. Training was arranged; GTMO would assist with implementing Tiger Team concept from 5 October 2003 through 3 December 2003, and Fort Huachuca sent a mobile training team for 21 days in early October 2003. Initially, MAJ (b)(6)-2 & (b)(7)(C)-2 was designated as the senior MI officer at AGP. LTG Sanchez gave him specific direction on 11 September 2003 that a LTC was needed to run the facility. COL (b)(6)-2 & detailed LTC Jordan to the BDE to perform that mission.

d. (U) On 20 September 2003, he informed LTC Jordan and MAJ (b)(6)-2 & (b)(7)(C)-2 of his intent and his concept of operation. LTC Jordan was the JIDC Officer in Charge (OIC). MAJ (b)(6)-2 & (b)(7)(C)-2 sent an e-mail that specified LTC Jordan was the JIDC Chief and he (MAJ (b)(6)-2 & (b)(7)(C)-2 was the operations officer. The organizational charts depicted LTC Jordan as in charge of the JIDC. After he (COL Pappas) became engaged in the day to day operations at AGP, LTC Jordan took on more of a liaison role. He did not rate LTC Jordan because he belonged to the CJTF-7 and he assumed he was being rated by the C-2 chain.

e. (U) The JIDC was filled primarily from a JMD based on the RFF. Although the JIDC was technically a joint operation, most of the JMD remained unfilled throughout his tour. The JIDC was essentially an Army run operation.

f. (U) During the first week in November 2003, LTG Sanchez visited AGP and was still not happy with the operations. Based on discussions with LTG Sanchez and MG Fast, he (COL Pappas) decided to move to AGP.

g. (U) MG G. Miller also recommended the need to have a specific written guidance on interrogation policies and authorities. MG G. Miller worked with the CJTF-7 legal team in developing a CJTF-7 ICRP that was along the lines of the one approved by DOD for GTMO.

(U) [IO Note: Evidence indicated that although MG G. Miller provided copies of GTMO interrogation policy, he did not participate in the drafting of CJTF-7 interrogation policy.]

h. (U) On 14 September 2003, CJTF-7 published its first interrogation policy signed by LTG Sanchez. This policy was revised on 12 October 2003 because of objections from CENTCOM. The 12 October 2003 policy eliminated several techniques that were previously approved. The Interrogation Rules of Engagement (IROE) was a JIDC

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published poster based on the 12 October 2003 policy memorandum. Nothing in the IROE violated the October policy.

i. (U) MG G. Miller worked with the CJTF-7 legal team on developing a CJTF-7 interrogation policy. Prior to the policy there was no guidance addressing interrogation and individual units used their internal SOPs. He believed the SOP at AGP was adequate because he did not receive any complaints concerning interrogations, and he had confidence in the CDR, 519th MI BN. However, the SOP's tactical focus made it inadequate for the conduct of operational/strategic level interrogations that the BDE was directed to perform. (EXHIBIT C-20)

20. (U) In a Sworn Statement, dated 27 May 2004, from a CID investigation, LTC Jordan stated:

a. (U) On 14 September 2003, COL (b)(6)-2 & (b)(7)(C) informed him that he would work at the JIDC as the C-2 LNO, and his duties would be determined. The 205th MI BDE was in charge of the JIDC. On 26 September 2003, COL Pappas offered him the JIDC CDR position, and he initially accepted the role. However, a week or two later he declined the position. COL Pappas then referred to himself (COL Pappas) as Director, JIDC. Approximately 20-25 October 2003 he (LTC Jordan) began serving in a mayoral support role.

b. (U) OGA and TF-121 routinely brought detainees in for a short period of time. The term "Ghost Detainee" was used as these detainees were not processed in the normal way and were not categorized. It was difficult to track these detainees. "Ghost Detainees" were referenced in the database with their capture tag number. In November 2003, COL Pappas began a formalized written MOU between OGA, the 205th MI BDE, and the 800th MP BDE. He did not recall briefing MG Fast or COL (b)(6)-2 & (b)(7)(C)-2 on "Ghost Detainees" but he did use the term "OGA Detainee."

c. (U) In mid to late October 2003, COL Pappas told him that he and BG Karpinski received the final ICRC report. He (LTC Jordan) did not see the report. He told COL Pappas he had not seen or heard of any detainee abuses. Additionally, he called a formation and addressed these issues to the JIDC Soldiers and civilians. No one indicated they were aware of any such activity. He did not know what action COL Pappas took concerning the issue. (EXHIBIT C-21)

SAIG-IN (20-1b) ANNEX 2 (DOCUMENTS) to DIG 04-80003 (UPDATE)

21. (U) In a Sworn Statement from the Fay Report dated 14 May 2004, MAJ (b)(6)-2 & (b)(7)(C)-2 Deputy CDR, 205th MI BDE stated:

a. (U) The 205th MI BDE S-3 section worked multiple actions related to organizing the JIDC and RFF, developed the JIDC battle rhythm and interrogation prioritization process, and worked with the C-2 staff to request GTMO Tiger Teams.

b. (U) Based on the 11 September 2003 briefing and LTG Sanchez' guidance, COL Pappas developed the strategy to align the 205th MI BDE's operations to a GTMO-like model. Placing the right staff at the JIDC was high priority. The Assistant BDE S-3 was assigned as the Operations Officer, JIDC. LTG Sanchez told COL Pappas the JIDC needed a LTC OIC. As the 205th MI BDE did not have any LTCs available to fulfill this role, LTC Jordan was assigned to serve as Director, JIDC.

c. (U) She told LTC Jordan that COL Pappas needed him to focus on interrogation operations and to leave the issue of resourcing AGP to the BDE staff. (EXHIBIT C-22)

22. (U) In a Sworn Statement from the Fay Report dated 24 May 2004, MAJ (b)(6)-2 & (b)(7)(C)-2 S-3, 205th MI BDE stated:

a. (U) During a meeting in late August or early September 2003 with LTG Sanchez, the decision was made to consolidate the coalition interrogation facilities. In early September 2003, he (MAJ (b)(6)-2 & (b)(7)(C)-2 began planning the consolidation. Based on information obtained from the GTMO assistance visits and discussions with MG Fast they submitted an RFF to establish an interrogation facility that utilized the "Tiger Team" concept.

b. (U) Initially, the 205th MI BDE determined they did not need a BN structure at the JIDC. However, they needed a field grade officer to set up the JIDC and serve as the Operations Officer. COL Pappas selected the Assistant BDE S-3 to run the JIDC. Later, LTC Jordan was assigned as the OIC, JIDC. The JIDC HQ was stood up to facilitate having a company CDR on the ground responsible for the health, welfare, morale, and discipline of JIDC Soldiers.

c. (U) LTC Jordan was supposed to run the JIDC, and the Soldiers viewed him as the OIC. He spoke with LTC Jordan a couple of times about what his (LTC Jordan's) job was and told him where his focus should be. He informed LTC Jordan that the

BDE staff would be responsible for Soldier support issues and he (LTC Jordan) should focus on running the JIDC. He informed COL Pappas that LTC Jordan was not the right officer to run the JIDC.

d. (U) LTG Sanchez wanted to ensure that interrogations were IAW proper procedures, and therefore directed COL Pappas to move to AGP. LTG Sanchez specified that the BDE's number one mission was interrogation operations.

e. (U) He was involved in a couple of discussions concerning interrogation methods and concepts with MG G. Miller's team. There was no approved IROE until CPT Wood put one together. He did not get involved in the requests or approval for exceptions to the IROE. Interrogators had to get permission to use dogs and sleep deprivation.

f. (U) OGA did not fully identify their detainees. These detainees were accounted for as OGA detainees, "OGA #1, OGA #2," etc. An MOA with OGA and CJTF-7 was worked but was never accomplished. (EXHIBIT C-23)

23. (U) In an undated memorandum, CPT (b)(6)-2 & (b)(7)(C)-2 former JA, 205th MI BDE, stated:

a. (U) He became involved with the IROE during MG G. Miller's visit. The initial interrogation policy utilized the GTMO interrogation policy as a template, but it was changed substantially to reflect the fact that GC protections applied to detainees in Iraq. COL Warren was involved in the staffing of the IROE. The initial policy drafting process took more than one week to complete. The original policy included approaches from FM 34-52 as well as input from MI and MP communities.

b. (U) CPT (b)(6)-2 & (b)(7)(C)-2 called him to check on the status of the IROE. She needed the IROE to inform her Soldiers of the rules. In September 2003, he informed (b)(6)-2 & (b)(7)(C)-2 that LTG Sanchez had signed the interrogation policy but it needed to be approved by CENTCOM. He sent CPT (b)(6)-2 & (b)(7)(C)-2 this policy and she drafted the IROE slide. He staffed the slide with CJFT-7 OSJA and it was okay as long as it remained restrictive in scope and provided minimum protections. CENTCOM did not approve the September policy but they did approve the 12 October 2003 policy. CJTF-7 understood that the GC applied to Iraq.

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c. (U) He kept COL Pappas updated on each proposed change to the interrogation policy. COL Pappas told him the 12 October 2003 policy was very close to FM 34-52 except for the safeguards. One of the changes implemented in the October policy was that the word "isolation" was changed to "segregation." Both the CENTCOM and CJTF-7 OSJAs wanted the language of the policy to be IAW the GC. Segregation of any detainee beyond 30 days required LTG Sanchez' approval. Segregation extension requests would pass through COL Pappas, MG Fast, COL Warren, respectively, to LTG Sanchez for approval or disapproval. The September policy stated the use of dogs during interrogations had to be approved by LTG Sanchez. He never told COL Pappas that the authority to approve the use of dogs was delegated to his (COL Pappas') level.

d. (U) During one of his many visits to AGP, he observed a naked detainee. He told LTC Jordan of the incident and he believed LTC Jordan addressed the situation and corrected it. (EXHIBIT C-24)

24. (U) An e-mail from MAJ (b)(6)-2 & (b)(7)(C)-2 and a JIDC Briefing provided to the DAIG Inspection Team reflected:

a. (U) The Director, JIDC, was responsible for interrogation operations and for producing intelligence derived from interrogations to the C-2. The 205th MI BDE was the JIDC operational and chain of command. The JIDC mission was to provide intelligence derived from the interrogation of detainees to the C-2.

b. (U) The JIDC operation chain of command was the CDR, 205th MI BDE, Deputy CDR, and CDR, CJTF-7.

c. (U) The 6 October and 22 November 2003, JIDC Organization Chart depicted LTC Jordan as the Director, JIDC. (EXHIBIT C-25)

25. (U) In a Sworn Statement, dated 9 May 2004, from the Fay Report, MG Fast stated:

a. (U) The C2 and the 205th MI BDE immediately began to implement the recommendations from the Miller Report. In the C-2 area this included standing up a robust C2X, and an analytic effort that capitalized on debriefing reports and focused interrogations. COL Pappas also began to implement recommendations to include an internal reorganization to establish Tiger Teams, as well as receiving GTMO teams to

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augment his effort and provide additional expertise and mentorship. A Fort Huachuca MTT came and conducted additional interrogation training.

b. (U) The MI BDE was responsible for interrogation and the MP BDE was responsible for detention operations. COL Pappas initially operated from his headquarters in Camp Anaconda, but found it necessary to relocate to Baghdad in order to be closer to CJTF-7 and key components of his command such as interrogation. She did not know when COL(b)(7)(C) assigned LTC Jordan to AGP and the first time she recalled meeting him was just after the mortar attack.

c. (U) She was responsible for the staff supervision for interrogation operations. Concerning abuse at AGP, she did not see or was not made aware of alleged detainee abuse, the use of dogs during interrogations, or aware of any photographs until the investigation was initiated. (EXHIBIT C-26)

26. (U) In an unclassified statement from the Fay Report, dated 20 July 2004, MG Fast stated:

a. (U) On 20 August 2003, she made her initial visit to AGP. Her goal was to visit AGP once a month. With interrogation being 15 percent of her effort and major spikes in enemy actions and activities, she found she could not meet her goal. She visited AGP every month from August 2003 through June 2004, with the exceptions of October and December 2003, and April 2004.

b. (U) In August 2003, interrogation management was fractured, chaotic, and not a coherent operation. Personnel were doing the best they could, but nothing had prepared them for what they were facing, a massive reorganization. LTG Sanchez wanted to consolidate the operations for a longer term beyond the tactical interrogations focusing on the operational level. There was no operational pause between cessation of hostilities and the next phase. They did not have time to plan. They morphed and operated as they stood up resources, procedures, and capabilities, and produced intelligence as they went.

c. (U) Because the detention and interrogation operation was incredibly complex with numerous issues, sometime in the fall 2003, they determined a GO was required to run the entire facility.

d. (U) During MG G. Miller's visit it was clear that GTMO did not equal Iraq. Interrogation was only one smaller portion of the HUMINT effort and part of a much larger all source intelligence effort. They were in a combat environment and the number and type of detainees were vastly larger and more varied than GTMO. Her takeaways from MG G. Miller's visit included the power of analysis fueling interrogations and the need for a strong C2X management capability. COL Pappas took the Tiger Team concept, the teaming of interrogator, analysts, and linguist. Additionally, COL Pappas decided to adopt the JIDC model.

e. (U) No order was published establishing the JIDC, nor doctrine on how to establish it. They used established TTPs, and applicable doctrine and policies and mapped it over the CJTF-7 operations. COL Pappas reorganized from within his BDE. Additionally, the C2 was reorganized to meet the operational needs. The JIDC operation belonged to COL Pappas. It took COL Pappas moving to AGP to provide the changes and leadership necessary concerning the JIDC.

f. (U) The C2X staff they started with was very small, only partially capable, and lacked experience and senior leadership. The C2X matured with the arrival of personnel and it took until November before it was capable of full spectrum HUMINT and CI operations. C2X personnel visited AGP weekly, principally to work out collection priorities and understand the JIDC's ability to satisfy information requirements. Visits were imperative as communications were so poor that they could go days without good contact. The JIDC provided the C2 staff with interrogation reports, statistics on the AGP population, and list of detainees of intelligence interest.

g. (U) The BDE CDR focused on actual collection as the CDR and asset manager. She, in the C2 staff supervisory role, focused on providing timely, relevant intelligence to the CDR and the force, the intelligence architecture, and capabilities that enabled intelligence operations.

h. (U) She spent roughly 50 percent of her time at Camp Victory and 50 percent of her time at the CPA. She spent a lot of time with CPA personnel and Ambassador Bremer, providing him an intelligence brief every morning, followed by a CPA morning update. Part of her staff was located in the CPA to work intelligence issues and also as part of the Joint Operations Center (JOC).

i. (U) She and COL Pappas had a normal G-2/MI BDE CDR relationship. LTC Jordan was assigned as the OIC, JIDC, by COL b(6) & b(7)(C) LTC Jordan received guidance from COL Pappas, not her or COL Boltz.

j. (U) During her visits to AGP she spoke with Tiger Team Soldiers and provided them with a sense of the big picture on how they were seeing the insurgency, to give them a better feel of where their piece fit into the overall effort, and why what they were doing was important. She also met with JIDC leaders during Interrogation Review Meetings at AGP, in those sessions she would do a similar rundown.

k. (U) As she was out of the theater for medical treatment, she did not participate in the development of the 14 September 2003 interrogation policy. The policy was created through the legal channels. Effective 12 October 2003, exceptions to the policy letter had to be requested to and approved by LTG Sanchez. These exceptions were staffed through her to the SJA for a legal review. She could only recall requests for segregation of a detainee beyond 30 days. She heard of other requests drafted by interrogators but they did not make it to the CJTF-7 staff.

l. (U) On one occasion with 10-15 interrogators, she discussed with them their left and right limits (authorities) concerning interrogations. Some of the BDE leadership was also present. All present indicated that they understood their limits and were comfortable with them.

(U) [IO Note: MG Fast visited AGP on 2 and 18 November 2003. On 2 November 2003, she accompanied LTG Sanchez while he spoke to interrogators. On 18 November 2003 she returned and spoke to 10-15 interrogators. See paragraph bb, below.]

m. (U) On 2 December 2003, she was notified of detainee abuse, not at AGP. She notified the SJA and they subsequently informed LTG Sanchez. As the unit in question was not subordinate to CJTF-7, CENTCOM was notified.

(U) [IO Note: The detainee abuse MG Fast referred to was concerning abuse reported to her during COL (b)(6)-2 & (b)(7)(C)-2 outbrief on or about 10 December 2003.]

n. (U) OGA asked if they could place detainees of OGA interest in a small number of cells. There were continuous problems with the MP accountability of detainees. They constantly were looking for detainees and sometimes it would take them up to two days to find a detainee. Detainees would be assigned a cell and then found back in the general population. They did not receive any specific guidance concerning OGA. She did not recall knowing about "Ghost Detainees" held at AGP prior to the investigation. The detainee who died on 4 November 2003 had just been brought in and had not yet been registered. (EXHIBIT C-27)

(b)(7)(D)

28. (U) In a sworn statement, dated 30 December 2004, COL (b)(6)-2 & (b)(7)(C)-2 SJA, CENTCOM, stated:

a. (U) With regard to the CENTCOM SJA's review of the CJTF-7 interrogation policy, the September 2003 policy was not wrong or illegal per se. He and his action officer for the review, MAJ (b)(6)-2 & (b)(7)(C)-2 were simply more comfortable with a policy that more closely tracked FM 34-52. It was the more conservative approach to take.

b. (U) He considered himself to be a fairly seasoned operational law attorney, and he never had the opportunity to review or draft an ICRP before. It was a highly specialized area not normally dealt with by military attorneys. As such, he was more comfortable with a policy that more closely tracked FM 34-52. He discussed the September policy face-to-face with COL Warren during his (COL (b)(6)-2 & (b)(7)(C)-2 visit to Iraq in September 2003.

c. (U) The aspects of the October 2003 policy memorandum that dealt with the use of dogs did not raise any "red flags" with either him (COL (b)(6)-2 & (b)(7)(C)-2 or MAJ (b)(6)-2 & (b)(7)(C)-2

d. (U) They used the 1987 version of FM 34-52 when they reviewed the CJTF-7 policy letters because that was the default version available on the official Army publications website; the 1992 version was not. This was not a problem or an indication that the CJTF-7 legal staff was confused about applicable law. The law relevant to the conduct of interrogations was found in both the GC and in applicable ARs and manuals. Both the 1987 and 1992 version of FM 34-52 received legal reviews at HQDA for compliance with the law of armed conflict.

e. (U) Standing alone and looking at them with the benefit of hindsight, both the September and October interrogation policies from CJTF-7 might be viewed as confusing. However, these policies were never intended to stand alone or be read in a vacuum. Interrogations were supposed to be conducted in accordance with written plans reviewed and approved by experienced interrogators.

f. (U) LTG Sanchez recognized that he had an "extraordinary pocket of competency" in COL Warren and his SJA staff, and as a perceptive CDR, LTG Sanchez took full advantage of that fact. (EXHIBIT C-29)

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3

SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80003 (UPDATE)

1. (U) On 26 October 2004, after being advised of his rights, (b)(7)(D) testified to SAIG-IN:

(b)(7)(D)

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SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80003 (UPDATE)

(b)(7)(D)

[redacted]

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(b)(7)(D) [redacted]

[redacted]

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(b)(7)(D)

[redacted]

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(b)(7)(D)

[redacted]

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SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80003 (UPDATE)

(b)(7)(D)

2. (U) On 13 December 2004, (b)(7)(D) testified to SAIG-IN:

(b)(7)(D)

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SAIG-IN (20-1b) ANNEX 3 (TESTIMONY) to DIG 04-80003 (UPDATE)

(b)(7)(D)

3. (U) On 9 November 2004 (b)(7)(D) US Army, testified to SAIG-IN:

(b)(7)(D)

(U) [IO Note: (b)(6)-2 & (b)(7)(C)-2 was a former US Representative from Florida, and one of three Panel Members on the Independent Panel to review DOD Detention Operations, the Schlesinger Report.]

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(b)(7)(D)

[redacted]

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4. (U) On 24 November 2004, GEN Kern testified to SAIG-IN:

a. (U) The CJTF-7 created a JIDC and it provided reports back up through staffs for the intelligence operations. The BDE CDR was never assigned a task or a subordinate BN CDR to conduct interrogations. The interrogation operation was assigned to the JIDC and they never really grasped the mission. LTC Jordan never acknowledged the fact that he was given the mission of running the JIDC, and there was no company command structure to oversee the Soldiers. It was unclear as to who was in charge of interrogations. No order was published that indicated who had the JIDC mission and what was the chain of command. There was no order assigning a CDR to the JIDC that depicted a company CDR responsible for the oversight of Soldiers, and a LTC reporting to a BDE CDR. (pp. 6-7, 9)

b. (U) COL Pappas should have been in charge of the JIDC with a BN CDR as opposed to a staffing function. The JIDC was an emerging doctrinal organization, and there was no manual that laid out how to stand it up. COL Pappas was responsible for all interrogation operations throughout Iraq not just at AGP. COL Pappas should have placed a BN CDR in charge of the JIDC. (pp. 8, 20)

c. (U) The abilities that MG Fast brought to set up the JIDC were all done with the best intentions and the best capabilities that could be brought to bear. MG Fast came up short because there was not an established organization or chain of command. (p. 11)

d. (U) MG Fast was not derelict in the performance of her duty. MG Fast was responsible to provide MI analysis and advice to the CDR. She was tasked to build an intelligence picture and was not responsible for the oversight of interrogations. She established the JIDC, and established the process of using information received from interrogations. The conduct of interrogation was COL Pappas' responsibility. (pp. 11, 47)

e. (U) Interrogations policies should have stated to abide by the GC above all other things. Policy memorandums from the SECDEF, GTMO, Afghanistan, as well as CJTF-7 draft policy were promulgated down to the JIDC. Soldiers were reading all these policies. Some Soldiers were previously assigned to GTMO or Afghanistan or both. The guidance was unclear after reading all these drafts. This resulted in confusion. LTC Jordan should have ensured the correct policy was promulgated at the correct time. (pp. 28-30)

f. (U) Neither of CJTF-7's interrogation policy memorandums violated the GC. The techniques did not violate the GC, it was the manner in which they were implemented. It was LTC Jordan's responsibility to ensure the policy was properly implemented. The second policy only applied to security detainees as opposed to EPWs and civilian detainees that were listed in the first policy and could have caused some confusion as to who fell under the GC, but in the end, they understood that the GC applied at AGP. (pp. 32, 36)

g. (U) A JIDC CPT was the primary MI BDE person involved in the staffing of the policies, and it was primarily staffed with the CJTF-7 SJA and not in the C-2. MG Fast was out of the country when the drafts were prepared and reviewed. She should have been involved in their staffing or at least a COL in the C-2 should have been involved. MG Fast had a thousand things to do, such as the JIDC development and the fusion of intelligence, and when she returned the policy was approved and she was receiving interrogation reports. Why would she go back to relook an approved policy? She had numerous other tasks to complete. It was not MG Fast's responsibility to determine whether the policy complied with the GC, which was a SJA function. (pp. 37-39) (EXHIBIT D-4)

5. (U) On 14 October 2004, LTG Jones testified to SAIG-IN:

a. (U) MG Fast was involved in establishing the intelligence operations and trying to pull the coalition and inter-agencies together. MG Fast did yeoman's work getting the intelligence and the priority intelligence requirements out, and making it seamless from tactical to strategic. She spent about 50% of her time at the CPA. (pp. 3-4)

b. (U) There was much emphasis on finding weapons of mass destruction, Saddam Hussein, and his top 54 advisors. MG Fast identified the need for better communications to facilitate the intelligence fusion capability that was required. The intelligence effort had to be reestablished. She developed the joint inter-agency task force to pull together the information. MG Fast and LTG Sanchez were heroes. They did "Herculean" kinds of things to move Iraq to the point it got to. Their actions were not negligent. (pp. 3, 16, 27)

c. (U) Whenever MG Fast was apprised of abuse, she took action. COL Pappas reported to her the death of an OGA detainee in November 2003. She reported the incident to LTG Sanchez, who directed her to contact the Baghdad Chief of Station to ensure an investigation, was done. The CIA and CID conducted investigations. She also reported an incident of abuse that occurred at Camp Cropper at the ISG. As the ISG was a CENTCOM not a CJTF-7 unit, the incident was reported to CENTCOM, and was subsequently investigated. (pp. 3-4)

d. (U) There was a lack of leadership at BDE level and below that stepped up and said this was wrong. This leadership fault fell at BDE level and below. COL b)(6)-2 & b)(7)(C)-2 sent LTC Jordan to the JIDC to take charge of interrogations and debriefing, and he (LTC Jordan) did not take charge. The decision was made to not use a MI unit chain of command to check and oversee what the Soldiers were doing. This led to a permissive environment which allowed some undisciplined personnel to influence what was going on inside the compound. The leadership was not involved. (pp. 7-8)

e. (U) CJTF-7 took guidance that was not meant for the Iraqi theater, interpreted it, tried to emplace some controls, and pushed it down. It was the 205th MI BDE's responsibility to execute the interrogation effort. COL Pappas did not step in and do the right thing. (pp. 8-9)

f. (U) MG G. Miller thought CJTF-7 needed an interrogation policy. CJTF-7 understood that the GC applied in Iraq, although there was some question about their applicability to certain categories of detainees. The CJTF-7 SJA used the 16 April 2003 SECDEF memorandum as a reference, and applied safeguards so that the GC applied. (p. 10)

g. (U) The interrogation techniques contained in the CJTF-7 policy memorandums could have been used without violating the GC. There were safeguards in place, but this led to the perception that additional techniques that were non-doctrinal could be used. LTG Sanchez thought that by putting the safeguards in place he had control of what interrogation techniques could be used. Junior Soldiers were exposed to techniques on which they were not trained. LTG Sanchez' legal advisor should have advised using only techniques listed in FM 34-52. (pp.10, 18-19)

h. (U) The SJA was seen as being responsible for ensuring the interrogation policies complied with the GC. MG Fast was not in Iraq when the first memorandum was developed. In hindsight, as the staff proponent for intelligence collection, MG Fast should have been more involved in the policy development. It appeared she relied on her subordinates for this interface. She was very busy establishing the intelligence organization and procedures, with a one-third staff, while also supporting the CPA. The State Department never stepped up to support the CPA, so it was left for the military to do. (pp. 3-4, 11)

i. (U) LTG Sanchez trusted his legal advisors when they told him the memorandums were in compliance with the GC. The Kern Report found that the memorandums did not adequately set forth the limits on interrogation techniques because they allowed junior Soldiers to interpret the techniques. The memorandums included techniques that were not in doctrine, and the safeguards were vague. The second memorandum only applied to security detainees. The main fault with the memorandums was they did not provide clear and consistent guidance. CJTF-7 took guidance that was not meant for the Iraqi theater, interpreted it, tried to emplace some controls, and pushed it down to junior Soldiers. It was the 205th MI BDE's job to execute the interrogation effort. COL Pappas did not step in and do the right thing. (pp.18-19)

j. (U) LTG Sanchez should have made one person on the staff in charge of detention and interrogation facilities. With no CofS, there was not a single staff POC regarding detention and interrogation issues. The lack of a full time CofS caused people to go to the various separate staff principals individually. Much was defaulted to the subordinate CDRs; BG Karpinski was responsible for detention operations, and COL Pappas was responsible for the interrogation/intelligence collection mission. In hindsight, MG Wojdakowski should have provided more guidance and oversight to COL Pappas. It was COL Pappas' inexperience that led to the lack of decision about making someone in charge at AGP. He could have moved a BN CDR in there to take charge, especially as the number of detainees at AGP grew. It overwhelmed the intelligence effort. No one stepped up at the 205th MI BDE to tell the Soldiers what their priorities were and manage the pressure. There was no "professional line of command" at AGP. The lack of leadership below the 205th MI BDE caused the young interrogators to feel a lot pressure. There was no evidence that pressure from the White House, Pentagon, and other places permeated down to AGP. (pp. 14, 20, 26-27)

k. (U) The Army had no doctrine for dealing with ICRC visits in a CJTF environment. There was no established staff responsibility for the ICRC. That was later worked at DOD. MG Fast became aware of the October 2003 ICRC report at the same time as LTG Sanchez, and there was no indication that she was aware of the report before then. (pp. 28-29) (EXHIBIT D-5)

6. (U) On 13 September 2004, MG Fay testified to SAIG-IN:

a. (U) There was confusion as to who was in charge of detainee operations in the CJTF-7. No one person was clearly in charge. Detainee operations was a shared responsibility between staff elements, staff officers, and CDRs. The responsibility for detention operations at CJTF-7 was shared among LTG Sanchez, MG Wojdakowski, the Provost Marshal, the C-2, and the C-3. MG Wojdakowski relied on COL Pappas regarding interrogation operations. (pp. 3-4)

b. (U) LTG Sanchez was facing all the pressures and war-fighting issues. "We" as a country under-resourced and under-appreciated what would be faced in Iraq. The country was optimistic regarding the amount of resistance the forces faced. Because we did not react quickly enough to the insurgency, CJTF-7 was left with a force that was not structured to fight an insurgency. (p. 6)

c. (U) Leaders that specifically failed to take steps to manage the pressure placed upon the JIDC were COL Pappas, LTC Jordan, MAJ (b)(6)-2 &, MAJ (b)(6)-2 & (b)(7)(C)-2, and CPT (b)(6)-2 & (b)(7)(C)-2 It was not LTG Sanchez' or MG Fast's or MG Wojdakowski's job to protect Soldiers within the 205th MI BDE from that kind of pressure. LTG Sanchez was rightly frustrated about the insurgency and the inadequate amount of intelligence. The pressure he placed on COL Pappas was not misplaced. (pp. 7-8)

d. (U) There was no doctrine that established responsibility and procedures for ICRC visits. He believed the SJA should take the lead. Neither LTG Sanchez nor MG Fast was made aware of the October 2003 ICRC report until after the fact. It appeared that COL Pappas, LTC Jordan, CPT (b)(6)-2 & (b)(7)(C)-2 BG Karpinski and her SJA, and COL Warren, ignored the findings in the ICRC report. No one that saw the report believed the allegations regarding nudity and prisoners wearing women's underwear were true. In the context of the situation, this was understandable. (pp. 9-10)

e. (U) The CJTF-7 interrogation policies did not contribute to the sexual or physical abuses at AGP. These abuses were clearly violations of law, and the individuals that participated knew they were doing wrong. (p. 12)

f. (U) The CJTF-7 SJA staff took the lead on developing the interrogation policies. He (MG Fay) was unaware of any doctrinal responsibility the C-2 had for interrogation techniques. The memorandums might have been staffed with the C2X. He did not know if MG Fast or MG Wojdakowski reviewed the policies. (p. 15)

g. (U) CENTCOM's review of the 14 September 2003 memorandum indicated it was too broad and gave the interrogators too much latitude. The memorandum was disseminated to the units before receiving CENTCOM's approval. LTG Sanchez should have realized that the unit would implement the memorandum as soon as they received it. The number of draft memorandums that circulated added to the confusion. Some Soldiers were operating from draft memorandums they believed were approved. (p. 16)

h. (U) The development of interrogation policy should rest with the C-2, with the SJA's heavy involvement to ensure the policy complied with all laws and regulations. In hindsight, MG Fast should have reviewed the policies and been more active in the staffing and dissemination. However, MG Fast had just arrived in country, and was heavily involved in assessing the intelligence picture in Iraq and setting up the new fusion center. She was grappling with a huge number of complex issues and trying to put together an intelligence infrastructure that did not exist. (pp. 17-18)

i. (U) The interrogation policies should not have differed from what was in FM 34-52. There should be consistency between what was taught at the intelligence school and what was used in the field. The policy should have indicated only the techniques listed in the FM, and stated that use of the techniques would comply with all laws, regulations, and the GC. (p. 18)

j. (U) It was not a failure on LTG Sanchez' part that he signed policy memorandums that included non-doctrinal interrogation techniques. He could have been more alert to the issue, but he was not negligent. He was a three-star CDR who was fighting an insurgency with an inadequate level of staff. The CENTCOM SJA staff had some responsibility regarding the issue. The CJTF-7 SJA office should have been more careful in their development of the policies, but the SJA staff was also under a lot of strain, were inexperienced, and under-resourced. (p. 19)

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k. (U) The policies did not violate the GC. The policies stated the requirement to comply with the GC, but left it to the Soldier to decide what did or did not comply. (p. 21)

l. (U) The JIDC was a doctrinal concept that LTG Sanchez, MG G. Miller, COL Pappas, and COL (b)(6)-2 & (b)(7)(C) discussed. There was no doctrinal guidance on the resourcing of a JIDC. He characterized the decision to man the JIDC with Soldiers drawn from units all over the world as a "fatal flaw" which resulted in the lack of a cohesive NCO base with which to supervise Soldiers. COL Pappas should have used one of his nine MI BNs to fill the JIDC. (pp. 22-23) (EXHIBIT D-6)

7. (U) On 29 October 2004, after being advised of his rights, MG (b)(6)-2 & (b)(7)(C)-2 testified to SAIG-IN:

(b)(7)(D)

(b)(7)(D)

[redacted]

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(b)(7)(D)
[redacted]

8. (U) On 21 October 2004, after being advised of his rights, (b)(7)(C) [redacted] testified to SAIG-IN:

(b)(7)(D)
[redacted]

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(b)(7)(D)

[redacted]

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(b)(7)(D)

[redacted]

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9. (U) On 20 October 2004, (b)(7)(C) [redacted] testified to SAIG-IN:

(b)(7)(D) [redacted]

(b)(7)(D) [redacted]

10. (U) On 3 November 2004, COL [redacted] testified to SAIG-IN:

a. (U) Mr. [redacted] called him on 24 November 2003, and told him that he wanted to share some information about things that were going on in Iraq with respect to the handling of EPW or detainee personnel. Mr [redacted] wanted him to be aware of, because he (Mr. [redacted] heard that he (COL [redacted] was preparing to go to Iraq in a consultant capacity dealing with detainees and detainee exploitation. Mr. [redacted] said that in June and early July 2003, he was in Iraq, and had established the JIDC at Baghdad International Airport (BIA). Mr. [redacted] said he reported alleged abuse multiple times, and was distressed that there was never any follow-up. Mr. [redacted] expected someone to call and interview him concerning the alleged abuse. As of December 2003, Mr. [redacted] said that no one had contacted him. (pp. 2-3, 7)

b. (U) Mr. [redacted] personally witnessed the effects of such abuse. Detainees, were brought to his center, where it was evident that they were being abused. Additionally, detainees were signed out for off-site exploitation and returned in a condition that showed signs of abuse. Mr. [redacted] observed the effects of abuse by "Agency guys" and "Army guys." Mr. [redacted] told him that Mr. [redacted] GS-15, Collection Manager, could verify the abuse as Mr [redacted] saw the damage done to

Mr (b)(6)-2 & (b)(7)(C)-2 detainee. Mr. (b)(6)-2 & (b)(7)(C)-2 also said that Major (b)(6)-2 & (b)(7)(C)-2 British Officer, was aware of the abuse. (pp. 3-4)

c. (U) Mr. (b)(6)-2 & (b)(7)(C)-2 said he complained to MG Dayton. By complain, he understood Mr. (b)(6)-2 & (b)(7)(C)-2 to mean that abuse was going on by the capturing unit. Mr. (b)(6)-2 & (b)(7)(C)-2 told him that MG Dayton and Mr. (b)(6)-2 & (b)(7)(C)-2 saw the poor conditions at the Interrogation Center; Mr. (b)(6)-2 & (b)(7)(C)-2 felt the conditions were not conducive to good exploitation. Mr (b)(6)-2 & (b)(7)(C)-2 believed that MG Dayton brought the matter to the CENTCOM Chief of Staff and to the CINCCENT, GEN Tommy R. Franks, Retired. Mr. (b)(6)-2 & (b)(7)(C)-2 believed the Red Cross knew about the problem, and that CENTCOM'S attitude was they would not deal with the issue until the ICRC reported it. Mr (b)(6)-2 & (b)(7)(C)-2 was sufficiently upset about the problem by early July that he did not want to associate himself with it anymore, he gave up and asked to depart theater. Mr. (b)(6)-2 & (b)(7)(C)-2 told him that MG Dayton e-mailed him (Mr. (b)(6)-2 & (b)(7)(C)-2 and that MG Dayton said something to the effect, "that it's worse than you think and that one of them was even killed." (pp. 5-6)

d. (U) MG Fast, through the Army G-2, invited him to visit Iraq. While over there, he intended to pursue Mr. (b)(6)-2 & (b)(7)(C)-2 issue. (p. 7)

e. (U) Concerning the ISG, he toured the entire site and spoke to a civilian, Mr (b)(6)-2 & (b)(7)(C)-2 head of the interrogation debriefing element. Mr (b)(6)-2 & (b)(7)(C)-2 had seen evidence of mistreatment by the capturing units. Mr. (b)(6)-2 & (b)(7)(C)-2 did not indicate any abuse of detainees by the MP BN. Mr. (b)(6)-2 & (b)(7)(C)-2 said the mistreatment was going on and everyone knew about it. Mr (b)(6)-2 & (b)(7)(C)-2 had not reported the mistreatment to anyone. Mr. (b)(6)-2 & (b)(7)(C)-2 said that detainees arrived showing signs of being abused and beaten. The detainees' conditions were documented by the medical team during the arrival medical exam. On multiple occasions the medical team documented signs of being beaten in a detainee's medical file. He advised Mr (b)(6)-2 & (b)(7)(C)-2 to report the abuse in writing to the chain of command, to include the JAG. (pp. 7-8)

f. (U) During his outbrief, he informed MG Fast of the alleged abuse and provided her with a copy of the 26 November 2003 memorandum concerning the issue. She registered her immediate concern and it was clear to him that she understood how serious it was. MG Fast acted on the information he provided. He knew this based on an e-mail MG Fast sent him some months later and the correspondence he had with the CJTF-7 SJA's Office. The SJA e-mailed him as a professional courtesy to share the action they took and it appeared that an investigation was conducted. He

(COL (b)(6)-2 & (b)(7)(C)-2) replied that Mr. (b)(6)-2 & (b)(7)(C)-2 could be excused for thinking that this was a cover-up, and expressed a blunt dismay that "their investigation" could conclude what they concluded given that he gave them the names of witnesses and named two people who admitted the abuse occurred. (pp. 9-10)

g. (U) On his way back from Iraq he stopped at the Pentagon and provided an outbrief to LTG Alexander and Mr. (b)(6)-2 & (b)(7)(C)-2, his Civilian Assistant. He believed he briefed them on a Saturday morning, 12 or 13 December 2003. It was about one day before the day Saddam Hussein was captured. Additionally, he provided LTG Alexander a copy of the report and a copy of the 26 November 2003 memorandum concerning Mr. (b)(6)-2 & (b)(7)(C)-2 issues. He told LTG Alexander that MG Fast was taking action concerning Mr. (b)(6)-2 & (b)(7)(C)-2 He told LTG Alexander what they had encountered at the facility and that Mr. (b)(6)-2 & (b)(7)(C)-2 acknowledged the mistreatment was going on and had not reported it. Mr (b)(6)-2 & (b)(7)(C) assured him they would follow up and the issue was taken very seriously. (pp. 10-11)

h. (U) When the news about AGP broke in February 2004, it was distressing to him because he and his team were there for the better part of a day and did not observe any such abuse. (p. 11)

i. (U) On 19 March 2004, he received an e-mail from CPT (b)(6)-2 & (b)(7)(C)-2 where she forwarded an e-mail she sent to Mr. (b)(6)-2 & (b)(7)(C)-2 closing the loop concerning his issues. He did not think this was appropriate and called LTC (b)(6)-2 & (b)(7)(C)-2 in the Army G-2, and Mr. (b)(6)-2 & (b)(7)(C)- He told them that the approach taken by CPT (b)(6)-2 & (b)(7)(C)-2 and her colonel was unsatisfying and unprofessional, and asked what kind of amateur hour was going on over there that they should come back with an answer that they were unable to find anything. Mr. (b)(6)-2 agreed that it was not very professional and he (b)(6)-2 & (b)(7)(C)-2 believed that the matter was brought to the DAIG. (pp. 11-12)

j. (U) On 7 April 2004, he received a letter from the Office of the SJA, COL (b)(6)-2 & (b)(7)(C)-2, that said, "Thank you for your e-mail expressing concerns about the investigation into the reported irregularities occurring at the JIDC in Iraq." And then COL (b)(6)-2 & (b)(7)(C)-2 gave all the reasons as to why they were not able to do much about it. He found it to be unimpressive in that Mr. (b)(6)-2 & (b)(7)(C)-2 asked him to look into the matter, he did and found confirmation. He reported it again while in theater, and three or four months later a colonel wrote him saying they could not find anything due to all the time that passed. (p. 12)

k. (U) His report was e-mailed to MG Fast on or about 13 December 2003, and on 14 June 2004, MG Fast e-mailed him saying she just found the report in her e-mail account on 27 May 2004. She said that she had not read the e-mail as she received numerous e-mails during that time, they had just captured Saddam, and the e-mail was from LTC (b)(6)-2 & (b)(7)(C)-2 and she did not recognize his name. She had not gotten to a lot of her e-mail and was just now going through it to spruce her memory up on AGP. (p. 14)

l. (U) He verbally out-briefed her on virtually everything in the report. Additionally, he verbally relayed observations about a couple of her people. He did not put this in the written report. He gave her a pretty good detailed out-brief and although when he first received her e-mail, he could not believe that she did not see the report, the question crossed his mind, did she really not see the report or was this just convenient and comfortable. But, knowing MG Fast and her character he ruled that out. (p. 14)

m. (U) MG Fast specifically stated in the e-mail that she took action on the (b)(6)-2 & (b)(7)(C)-2 issue. She discussed it and forwarded the information the next day to LTG Sanchez, and he through CENTCOM and the investigation was conducted. This information was a bit of a curve-ball for him because the CJTF-7 SJA had informed him of the investigation results, yet MG Fast said that the issue was sent to CENTCOM where an investigation was conducted. (pp. 14-15)

n. (U) He was very conscious of the fact that MG Fast invited him to look at an area that she thought was a critical area; probably the most important thing that they were doing in intelligence collection. She knew it was not in a good state of health and she wanted him to look at it. It took a lot of courage for MG Fast to do that. She invited an outsider into the tent to look at an area that she was responsible for; that she considered to be in an ill state of health, and for that reason he thought that showed great character. (p. 15)

o. (U) He made his report confidential to MG Fast although she understood that LTG Alexander would see it. The report was only sent to her and was not sent to her subordinates. (p. 15)

p. (U) During the outbrief, he told MG Fast that he would write the report on the airplane and would share it with LTG Alexander. Additionally, he would e-mail the report to her and if there was anything in the report that she felt that was in error or if she was concerned with the language, she could e-mail him and he would make changes. (p. 15)

q. (U) He verbally briefed her with a detailed handwritten outline. She was concerned with the AGP situation. In a couple of cases she said that she was unaware of it or that she thought they had fixed it. He told her it was very evident that COL Pappas and COL (b)(6)-2 & (b)(7)(C)-2 former C2X, CJTF-7, were not keeping her well informed. He told her that his assessment of COL Pappas was very negative based on his visit with him and how he tried to you know guild the lily with him as opposed to being frank. He told her that COL (b)(6)-2 & (b)(7)(C)-2 was a fine and bright fellow but was not the right person to be the Chief, HUMINT/CI. He was desk bound and did not seem to have a grasp on the position. The fact that she did not know what was going on in that critical area told him that the two people that would be responsible to be sure that she did know what was going on, would have been COL Pappas and COL (b)(6)-2 & (b)(7)(C)-2. And the fact that she did not know, plus his observations of the two of them as they did their jobs forced him to say to her that he thought she was not being well served by either of them. His observations concerning COL Pappas and COL (b)(6)-2 & (b)(7)(C)-2 were not included in his written report. He verbally briefed her the night before we flew back; he believed it was either 9, 10 or 11 December 2003. (pp. 15-16)

r. (U) LTC (b)(6)-2 & (b)(7)(C)-2 stated that in December 2003, before departing Iraq COL (b)(6)-2 & (b)(7)(C)-2 gave MG Fast a very detailed verbal outbrief. Additionally, COL (b)(6)-2 & (b)(7)(C)-2 upon returning to the Pentagon gave LTG Alexander a verbal outbrief as well as a copy of his report. On or about 10 December 2003, he (LTC (b)(6)-2 & (b)(7)(C)-2 e-mailed via SIPRNET the report to MG Fast. When he did not receive a response to this e-mail, he e-mailed either COL (b)(6)-2 & (b)(7)(C)-2 or MG Fast's XO and asked for confirmation that she received COL (b)(6)-2 & (b)(7)(C)-2 report. The response was that MG Fast received it. He did not know when MG Fast read the report. In June 2004 (b)(6)-2 & (b)(7)(C)-2 informed him that MG Fast had just found the report in her e-mail. (EXHIBIT D-10)

11. (U) COL Pappas was interviewed on 9 and 19 February 2004, as part of the Taguba Investigation:

(b)(7)(C)

a. (U) In a 9 February 2004 interview, COL Pappas stated action was taken when incidents of detainee abuse were brought to his attention. He recalled two incidents of detainee abuse by interrogators. In one incident, UCMJ action was taken; and in the second, he directed the interrogator be suspended of duties. He had no knowledge of any other abuses, until the CID investigation.

b. (U) In a 19 February 2004 interview, COL Pappas stated:

(1) (U) LTC Jordan was his deputy for interrogation operations and was responsible for the JIDC. LTC Jordan was at the scene of a shooting incident and did not inform him of the incident. LTC Jordan was also involved in searching the cell of an inmate who had a hidden firearm. It was not common practice for MI Soldiers to be leading a search. It was also common for LTC Jordan to conduct searches without notifying the MP chain of command or him (COL Pappas). LTC Jordan's rating chain was through the C-2. He did not know who rated LTC Jordan, as he was not assigned to the 205th MI BDE. LTC Jordan was sent down from the C-2 to fill the deputy JIDC's position. LTC Jordan worked in a separate chain of supervision and remained a part of the C-2's operational staff.

(2) (U) LTC Jordan was his assistant and his duties included ensuring that interrogations were conducted properly. MAJ (b)(6)-2 & (b)(7)(C)-2 CPT (b)(6)-2 & (b)(7)(C)-2 and CW2 (b)(6)-2 & (b)(7)(C)-2 were under LTC Jordan's direct supervision. He did not confront LTC Jordan concerning the limits of his duties and responsibilities. He did not discuss LTC Jordan's duties and responsibilities with MG Fast. LTC Jordan was a loner who freelanced between MP and MI, and he (COL Pappas) failed by not reining him in. LTC Jordan wore MI branch insignia and his background was tactical intelligence. As a civilian, LTC Jordan worked for the transportation security agency. In December 2003, he requested that LTC Jordan be removed.

(3) (U) He sent a request through his SJA to COL Warren requesting certain interrogation techniques be authorized. He believed they requested A through S number of techniques. The first memorandum signed by LTG Sanchez had additional techniques listed when he received it. Concerning interrogation techniques, the 205th MI BDE worked that staff action with the SJA and submitted it to LTG Sanchez for approval. (EXHIBIT D-11)

12. (U) On 8 December 2004, LTC (b)(6)-2 & (b)(7)(C)-2 stated, concerning the assistance visit to Iraq, COL (b)(6)-2 & (b)(7)(C)-2 gave MG Fast a very detailed verbal outbrief. On or about 10 December 2003, he e-mailed via SIPRNET COL (b)(6)-2 & (b)(7)(C)-2 draft report to MG Fast. When he did not receive a response within two weeks, he e-mailed COL (b)(6)-2 & or MG Fast's XO asking if MG Fast received the report. The response was MG Fast had received the report. He did not know how they confirmed her receipt, and did not know if MG Fast had read the report. (EXHIBIT D-12)

13. (U) On 22 October 2004, after being advised of her rights, (b)(7)(D) testified to SAIG-IN:

(b)(7)(D)

(b)(7)(D)

[redacted]

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(b)(7)(D)

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b(7)(D)

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4

SAIG-IN (20-1b) ANNEX 4 (DISCUSSION) to DIG 04-80003 (UPDATE)

1. (U) Article 92 of the UCMJ stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

2. (U) The allegation that MG Fast was derelict in the performance of her duties was derived from information contained in the Kern Report, the Jones Report, and the Schlesinger Report.

3. (U) **Was MG Fast derelict in her duty to ensure proper staff supervision of intelligence operations?** The Schlesinger Report reflected MG Fast failed to advise the CDR properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of OGAs within the Joint Area of Operations. The Jones Report reflected that inaction at the CJTF-7 staff level could have contributed to the failure to discover and prevent abuses before January 2004.

a. (U) Element #1. Did MG Fast have a duty to provide staff supervision of intelligence operations? **YES.**

(1) (U) As the C-2, MG Fast was the staff SIO within the CJTF-7 and was responsible for providing strategic intelligence and POLMIL advice to Ambassador Bremer and the CPA, and operational and strategic intelligence and advice to LTG Sanchez and CJTF-7. MG Fast's responsibilities included establishing the priorities for intelligence collection, requirements management, analysis and fusion. Numerous senior leaders testified to MG Fast's responsibilities for providing staff oversight of intelligence operations.

(2) (U) JP 2-01 stated the J-2 could establish a JIDC for follow-on exploitation. The JIDC was normally subordinate to the J-2 and its interrogation and debriefing activities were managed by the J-2 HUMINT staff section of the J2X within the J-2. In this regard, the Army G-2 testified that the JIDC was normally subordinate to the theater MI BDE and that joint doctrine needed to be clarified regarding command responsibility

of JIDC operations. Evidence indicated that within CJTF-7, command responsibility for JIDC operations was assigned to CDR, 205th MI BDE. In this case, the theater MI BDE was redeployed and the mission was assigned to a Corps MI BDE that by doctrine was not trained and did not have the interrogation capacity to run the JIDC. Significant augmentation was required. Testimony indicated that although the JIDC was technically a joint operation, much of the JMD remained unfilled and the JIDC was essentially an Army run operation.

(3) (U) AR 600-100 stated GOs were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further support Army policy and values. As a senior leader and CJTF staff officer, MG Fast operated at the operational, strategic, and POLMIL levels in support of both the CPA and CJTF-7. She had no command responsibilities.

(4) (U) FM 34-52 stated that the CIF conducted tactical and strategic interrogations based on the intelligence requirements and specific guidance of the Corps G-2. Evidence indicated the C/J-2 staff responsibilities included providing intelligence priorities, resources and management to the 205th MI BDE for the execution of its command intelligence responsibilities.

b. (U) Element #2. Did MG Fast know or should she have reasonably known of this duty? **YES**. Her own and other senior leader testimony established that MG Fast knew and accepted her duties regarding the staff supervision of intelligence operations, as assigned by the CDR, CJTF-7. (b)(7)(D)

(b)(7)(D)

c. (U) Element #3. Was MG Fast derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency? **NO**. Based on an analysis of the state of intelligence upon MG Fast's arrival, the unforeseen high number of detainees, the operational tempo of the understaffed C-2, MG Fast's personal support to the CPA, and COL Pappas' command responsibility for the execution of the JIDC mission, the preponderance of the evidence indicated MG Fast properly executed her responsibilities regarding the staff supervision of intelligence operations.

(b)(7)(D) [redacted]

(b)(7)(D) [redacted]

(4) (U) GEN Kern testified that MG Fast was responsible to provide MI analysis and advice to LTG Sanchez. She was tasked to build an intelligence picture and was responsible for the oversight of interrogations. She established the process of using information received from interrogations. The conduct of interrogations was not MG Fast's responsibility. The 205th MI BDE CDR was responsible for the conduct of interrogations.

(5) (U) CJTF-7 did not have authority over OGA operations. The command and control of OGAs rested with their organic headquarters. However, any OGA operating in the ITO was bound by the GC in the same manner as CJTF-7. The evidence indicated that MG Fast was not aware of an accountability issue concerning OGA detainees. Although COL (b)(6)-2 & (b)(7)(C)-2 [redacted] report included comments concerning accountability issues with "Ghost Detainees," MG Fast did not open the e-mail containing the report until May 2004, because she did not recognize the e-mail sender's

name, she received a high volume of e-mails, and she had to prioritize the e-mails she would read because of the high operational tempo. Additionally, COL (b)(6)-2 & (b)(7)(C)-2 outbrief to MG Fast did not mention "Ghost Detainees," as evidenced by MG Fast's testimony and COL (b)(6)-2 & (b)(7)(C)-2 notes. Furthermore, (b)(7)(D)

(b)(7)(D)

(6) (U) LTG Jones, a senior IO, testified that MG Fast was responsible for the establishment of the intelligence operations and pulling coalition and inter-agency intelligence together. COL Pappas was responsible for the execution of the interrogation effort.

(7) (U) MG Fay, a senior IO, testified that the responsibility for detention operations was shared among LTG Sanchez, MG Wojdakowski and the staff. MG Wojdakowski relied on COL Pappas regarding interrogation operations.

(b)(7)(D)

(9) (U) COL (b)(6)-2 & (b)(7)(C)-2 Deputy C-2, CJTF-7, testified that COL Pappas was in charge of the JIDC, and was responsible for the conduct of interrogations, the training of interrogators, and ensuring compliance with policies and procedures. MG Fast advised and could recommend changes to policy and procedures, but COL Pappas made the decisions on what interrogation techniques were used.

(10) (U) COL Pappas testified that his deputy for interrogation operations, LTC Jordan, was responsible for ensuring interrogations were properly conducted.

(11) (U) Concerning leadership, the Army had different expectations for leaders at different levels of command. MG Fast was a staff officer operating at the strategic level of leadership, not a CDR. As such, she was responsible for advising her CDR on matters such as force structure, integration, joint and interagency operations and the management of complex systems. She assisted the CDR in setting policies, and strategic direction and long range mission accomplishment.

(12) (U) COL Pappas, by contrast, was a CDR of a tactical unit. As a senior, not strategic leader, the Army expected him to tailor resources and set a command climate. He was expected to direct the operations of complex systems, tailor resources to programs, and focus on mid-range planning and mission accomplishment.

(13) (U) The evidence indicated that the intelligence structures that CFLCC transferred, and CJTF-7's initial capabilities and resources were inadequate in addressing the intelligence requirements to operate across strategic, operational and tactical levels. Prior to MG Fast's arrival there was no structure to synchronize all the intelligence activities. When MG Fast arrived at CJTF-7, she was tasked to focus her efforts on building an adequate intelligence structure. The Jones Report indicated the subsequent success of the architecture created by MG Fast vastly improved the intelligence process and saved the lives of Coalition Forces and Iraqi civilians, and that HUMINT operations and the fusion of intelligence led to the capture of key members of the former regime, including Saddam Hussein.

(14) (U) Additionally, the high number of detainees was not anticipated, and CJTF-7 had to quickly adapt to the growing number of detainees in a country where the existing prison facilities had been virtually destroyed. Expectations of the growth of Iraqi national capabilities were not met, and CJTF-7 retained the additional burden of a civilian criminal population.

(15) (U) The tasks in expanding the intelligence organization, obtaining operational intelligence about the insurgency, and providing support to the CPA, consumed the efforts of the CJTF-7 staff. LTG Sanchez had to prioritize efforts, and by necessity, devoted his resources to fighting the insurgency and supporting the CPA. Concerning interrogation operations, MG Fast had staff responsibility for establishing priorities and for overseeing the types of intelligence collected. COL Pappas exercised command responsibility for conducting interrogations by which the intelligence was collected. LTG Sanchez relied on COL Pappas to run interrogation operations at AGP. MG Fast did not have physical oversight of the interrogation operations at AGP, but was responsible for the larger intelligence picture and providing COL Pappas with the PIR.

(16) (U) Evidence indicated MG Fast and her staff worked closely with the 205th MI BDE. MG Fast put mechanisms in place for staff oversight of intelligence operations. Several witnesses testified that the C-2 staff frequently visited the JIDC and

LNOs were placed on site. With few exceptions, MG Fast made monthly visits to AGP. In November 2003, she made two visits to AGP; the first with LTG Sanchez where he spoke to interrogators ensuring they understood their left and right limits; during her second visit she spoke with 10 to 15 interrogators, to ensure once again they (the interrogators) understood the interrogation policy.

(17) (U) The evidence indicated that MG Fast provided effective staff oversight of intelligence operations despite the low manning level of the CJTF-7, the staff's high level of support to the CPA, and the demands of the growing insurgency. Both testimony and reports reviewed revealed that CJTF-7 was never fully resourced in terms of personnel. The JMD never reached more than 60 percent fill, and much of the available staff's effort was directed towards supporting the CPA. A portion of the C-2 staff was co-located with the CPA, and MG Fast was required to commit a significant portion of her personal daily efforts in support of the CPA. While this increased the burden on her staff, evidence established that both she and CJTF-7 executed growing operational and strategic responsibilities far in excess of those envisioned for Phase IV, or for which they were resourced.

(18) (U) The evidence indicated LTG Sanchez directed COL Pappas to stand up the JIDC. The JIDC had no defined structure, and initially did not have a manning document. The JMD was created while the JIDC was already operating, and procedures for the JIDC were ad hoc and adapted from FM 34-52 where possible. A repeated criticism was that COL Pappas decided not to assign the JIDC mission to one of his BN CDRs, and did not ensure that a chain of command was established. His reliance on inexperienced staff personnel to manage the entire operation was cited as a point of failure.

(19) (U) The Fay Report reflected COL Pappas: failed to properly organize the JIDC; emplace the necessary checks and balances to prevent and detect abuses; ensure his Soldiers and civilians were properly trained; showed poor judgment by leaving LTC Jordan in charge of the JIDC; and failed to communicate to higher authorities when his BDE would be unable to accomplish its mission. The Schlesinger Report reflected the CJTF-7 failed to develop an effective command relationship for the JIDC. Neither the leadership nor the MI organization at AGP was prepared for the mission. The CDR, 205th MI BDE failed to ensure his Soldiers were properly trained and followed the IROE.

(20) (U) Evidence established MG Fast was tasked to provide an assessment of the state of intelligence in Iraq. LTG Sanchez charged her to organize intelligence and provide advice and steerage to achieve an operational level of intelligence support. She provided the CPA with much of the intelligence required for LTG Sanchez and Ambassador Bremer to perform the missions. She advised LTG Sanchez on policies and guidance, and the establishment of the JIDC. She exercised staff oversight of intelligence operations. COL Pappas was assigned responsibility for the conduct of interrogation operations.

(21) (U) All testimony was consistent in stating that the JIDC operation was a command, not staff, responsibility, and that the responsibility for the organization, training and leadership of the JIDC rested with the MI BDE CDR, COL Pappas. While there were command failures in execution at the brigade level, these were not attributable to MG Fast.

b)(7)(D) [redacted]

(23) (U) GEN Kern testified that MG Fast or at least a COL from the C-2 should have been involved in the development of the interrogation policy. The 14 September 2003 policy was approved and implemented while MG Fast was out of country. Upon MG Fast's return she received interrogation reports. GEN Kern further testified there was no need for MG Fast to relook an approved policy as she was consumed with numerous other tasks to complete. He testified it was not MG Fast's responsibility to determine whether the policy complied with the GC. Compliance was a SJA function. Evidence indicated changes were made based on recommendations provided by CENTCOM not restaffing within CJTF-7.

(24) (U) LTG Jones testified that the interrogation techniques contained in the policy memorandums could have been used without violating the GC. The main fault he cited with the policy memorandums was they did not provide clear and consistent guidance. The SJA was responsible for ensuring the policies complied with the GC. In hindsight, MG Fast should have been more involved in the policy development, but she was very busy establishing the intelligence organization and procedures, with one-third staff. Additionally, she was supporting the CPA.

(25) (U) MG Fay testified that development of the interrogation policy should rest with the C-2 with heavy involvement by the SJA. In hindsight, MG Fast should have reviewed the policies; however, she had just arrived in country and was consumed with setting up an intelligence infrastructure that did not exist.

(b)(7)(D)
[redacted]

(27) (U) The DAIG Detainee Operations Inspections Report reflected that the officially approved CJTF-7 policies generally met legal obligations under US law, treaty obligations and policy, if executed carefully, by trained Soldiers, under the full range of safeguards and there was no direct link between the proper use of an approved approach technique and a confirmed case of detainee abuse. If executed under the full range of safeguards, CJTF-7's policy did not appear to violate the GC. Additionally, the report reflected that MI officers were not adequately trained on how to manage the full spectrum of the collection and analysis of HUMINT.

(b)(7)(D)
[redacted]

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(29) (U) LTG Sanchez appointed his SJA to take the lead on the development of the policy memorandums. COL Warren was generally recognized as a subject matter expert in the law of war. It appeared reasonable to rely on COL Warren's judgment and experience, given his knowledge base and MG Fast's absence at the time of the drafting.

(30) (U) All senior leaders interviewed for this investigation testified that both policy memorandums complied with the GC. The responsibility for the training of interrogators and the planning and conduct of interrogations belonged to COL Pappas.

(31) (U) The preponderance of the evidence indicated that MG Fast was charged with the development of the intelligence architecture to support the CJTF-7 mission as well as support to the CPA. She personally spent 50 percent of each day with the CPA providing strategic and POLMIL support. Had CJTF-7 been provided more personnel and resources, and had she been in theater at the time, MG Fast might have been more active in the development of the interrogation policy. However, the evidence indicated that MG Fast was not in theater during the policy development, and she was unaware the September policy was being drafted. Although MG Fast was not present, evidence indicated that personnel from the 205th MI BDE were directly involved in the drafting of the interrogation policy. LTG Sanchez sent the signed 14 September 2003 ICRP to CENTCOM stating it would be implemented unless otherwise directed. Subsequently, CJTF-7 incorporated revisions recommended by CENTCOM into the 12 October 2003 ICRP. Upon MG Fast's return to theater, the September policy was implemented but the revisions were pending. MG Fast testified she reviewed the completed policy, noted that it was basically FM 34-52 plus segregation and complied with the GC. Later, she reviewed requests for exception to the policy. Further the evidence indicated that MG Fast spoke with interrogators to ensure they understood their limits with regards to the policy.

(32) (U) The preponderance of the evidence indicated that MG Fast properly executed staff supervision of intelligence operations for CJTF-7. She clearly understood her duties and priorities as assigned by her CDR, and testimony by multiple senior officials supported both her responsibilities and accomplishments. MG Fast's actions must be evaluated in the context of the volatile and rapidly changing operational environment, and the multiple responsibilities assigned to CJTF-7. The preponderance of the evidence indicated that MG Fast was not derelict in her duty to ensure proper staff supervision of intelligence operations.

4. (U) **Was MG Fast derelict in her duty to coordinate ICRC visits and respond to ICRC recommendations?** The Kern Report reflected that there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with ICRC visits, and that ICRC recommendations were ignored by CJTF-7 personnel.

a. (U) Element #1. Did MG Fast have a duty to coordinate ICRC visits and respond to ICRC recommendations? **NO**. LTG Jones and MG Fay testified there was no Army doctrine that established responsibility and procedures for dealing with ICRC visits. ICRC practice was to report to the lowest level CDR having responsibility. Neither Army nor ICRC policy required MG Fast's involvement in responding to the ICRC. The reports referred to were ICRC Working Papers provided to the chain of command who after inquiring into specific allegations, did not believe the allegations were true [redacted] There was no evidence that MG Fast was responsible for coordinating ICRC visits or for responding to ICRC recommendations.

b. (U) MG Fast did not have a duty to coordinate ICRC visits or respond to ICRC recommendations, therefore, the second and third elements of dereliction of duty were not discussed.

5. (U) **Was MG Fast derelict in her duty to report allegations of potential abuse?** COL Herrington testified that he informed MG Fast of potential abuse of detainees by a CENTCOM unit.

a. (U) Element #1. Did MG Fast have a duty to report allegations of potential abuse? **YES**. DODD 5100.77 stated that all military personnel would report reportable incidents through their chain of command.

b. (U) Element #2. Did MG Fast know or should she have reasonably known of this duty? **YES**. MG Fast testified that when apprised of potential abuse she had an obligation to report it.

c. (U) Element #3. Was MG Fast derelict in her duty to report allegations of potential abuse? **NO**.

(b)(7)(D)

(b)(7)(D)

(3) (U) The evidence indicated that in instances where MG Fast was apprised of alleged abuse she took prompt action to inform proper authorities.

6. (U) The standard required that to prove dereliction of duties, a person must be derelict in the performance of the duties through willfulness, neglect, or culpable inefficiency. Senior leaders interviewed indicated that MG Fast performed admirably given the challenges and resources with which she was faced. While some reports indicated failures and some senior officials testified that actions could have been conducted differently, none characterized MG Fast's actions as derelict. Many praised her performance. The preponderance of the evidence indicated that MG Fast properly provided staff advice on strategic and operational intelligence and promptly reported potential abuse to proper authorities. MG Fast had no responsibility to coordinate ICRC visits or respond to ICRC recommendations.

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## SAIG-IN (20-1b) ANNEX 5 (OTHER MATTERS) to DIG 04-80003 (UPDATE)

1. (U) Other Matters:

a. (U) Evidence indicated that MG Dayton as Director, ISG, was informed of potential detainee abuse by a capturing unit. As the ISG was not an Army organization, this inquiry did not address the matter.

b. (U) While limited reference was made to JIDC operations in Joint Doctrine, there did not appear to be Army doctrine regarding JIDC operations.

c. (U) Evidence indicated potential allegations that COL Pappas, CDR, 205th MI BDE, and LTC Jordan, Director, JIDC, were derelict in their respective duties.

2. (U) Recommendations:

a. (U) Refer the issue in paragraph 1a to the IG, DOD, for appropriate action.

b. (U) Refer the issue to paragraph 1b to the Deputy Chief of Staff, G-2, for appropriate action.

c. (U) Refer allegations against COL Pappas and LTC Jordan to SAIG-AC, for appropriate action.

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A Allegation

B Standard
Article 92, UCMJ

C Documents:
C-1 DODD 5100.77, dated 9 December 1998
C-2 AR 600-100, dated 17 September 1993
C-3 JP 2-01, dated 20 November 1996
C-4 FM 2-0, dated 17 May 2004
C-5 FM 34-52, dated 28 September 1992
C-6 FM 101-5, dated 31 May 1997
C-7 CJTF-7 Interrogation Policy, dated 14 September 2003
C-8 CJTF-7 Interrogation Policy, dated 12 October 2003
C-9 The Taguba Report
C-10 DAIG Detainee Operations Inspection Report
C-11 The Kern Report
C-12 EXSUM of the Kern Report
C-13 The Jones Report
C-14 The Fay Report
C-15 The Schlesinger Report
C-16 COL Herrington's Notes
C-17 The Herrington Report
C-18 Memorandum, dated 26 November 2003
C-19 COL Pappas, Sworn Statement, dated 11 February 2004
C-20 COL Pappas, Sworn Statement, dated 14 May 2004
C-21 LTC Jordan, Sworn Statement, dated 27 May 2004
C-22 MAJ [redacted] Sworn Statement, dated 19 May 2004
C-23 MAJ [redacted] Sworn Statement, dated 24 May 2004
C-24 CPT [redacted] Memorandum
C-25 MAJ [redacted] E-mail, dated 8 May 2004 and JIDC Briefing Slides
C-26 MG Fast, Sworn Statement, dated 9 May 2004
C-27 MG Fast, Statement, dated 20 July 2004
C-28 MG Fast, Statement, dated 23 December 2004
C-29 COL [redacted] Sworn Statement, dated 30 December 2004

FOIA: NO

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| D | Testimony | |
| D-1 | (b)(6)-2 & (b)(7)(C)-2 | FOIA: NO |
| D-2 | | FOIA: NO |
| D-3 | | FOIA: NO |
| D-4 | GEN Paul J. Kern | FOIA: YES |
| D-5 | LTG Anthony R. Jones | FOIA: YES |
| D-6 | MG George R. Fay | FOIA: YES |
| D-7 | (b)(6)-2 & (b)(7)(C)-2 | FOIA: NO |
| D-8 | | FOIA: NO |
| D-9 | | FOIA: NO |
| D-10 | | FOIA: YES |
| D-11 | (b)(6)-2 & (b)(7)(C)-2 | FOIA: NO |
| D-12 | | FOIA: NO |
| D-13 | | FOIA: NO |

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D4

Testimony of **GENERAL PAUL J. KERN**
Taken at Fort Belvoir, Virginia,
Between the hours of 1030 and 1245,
24 November, 2004, by Ms (b)(6)-2 & (b)(7)(C)-2 and
Colonel (b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency,
Washington, D.C.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, the time is 1030. This tape-recorded interview is being conducted on 24 November, 2004, at Fort Belvoir, Virginia.

[U] Persons present are the witness General Kern and the Inquiring officers (b)(6)-2 & (b)(7)(C)-2 and Colonel (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials in CJTF-7.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may be directed by proper authority.

[U] Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] GENERAL KERN: Yes, I do.

[U] MS (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, Sir, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] Do you have any questions before we begin?

[U] GENERAL KERN: No, I don't.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [General Paul J. Kern was sworn and testified under oath as follows:]

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you may lower your hand. For the record please your name?

[U] A. Paul J. Kern. K-E-R-N.

[U] Q. Your rank and component?

[U] A. General, United States Army.

[U] Q. Your position and organization?

[U] A. Formerly the Commanding General of the United States Army Material Command.

[U] Q. All right, Sir, your Social Security Number and this is voluntary.

[U] A. (b)(6)-2 & (b)(7)(C)-2

[U] Q. And an address either home or office, keeping in mind that the return address on any correspondence from this office will indicate that it is from DAIG.

[U] A. (b)(6)-2 & (b)(7)(C)-2 and that's (b)(6)-2 & (b)(7)(C)-2

[U] MS (b)(6)-2 & (b)(7)(C)-2 All right. Thank you, Sir. All right, we will go ahead and get into the questions. Sir, did you want to start or shall I just go ahead and start.

[U] COL. (b)(6)-2 & (b)(7)(C)-2 Sir, we have some prepared questions, , but we'd like to offer you the opportunity, if you'd care to, to make any comments before we begin.

[U] GENERAL KERN: I think from--you know I've spent 41 years wearing a uniform. Almost 42. This is perhaps one of the most challenging pieces of it from the perspective of what we found that Soldiers did at Abu Ghraib and then trying to determine a cause and accountability for it. And so this is both a disturbing event from my perspective of and career in the Army, but I think in which one we did a very through investigation in trying to link all the pieces and clearly there is many organizations and many people involved that have to be brought into account. So I would suggest that this task that you have right now of trying to fix the final accountability with the Senior General Officers who are involved in it, is one that is both important to the United States Army and also one which is going to have different interpretations I think based upon where people were sitting and watching and seeing how the events unfolded.

[U] MS(b)(6)-2 & (b)(7)(C)-2: Yes, Sir.

[U] COL. (b)(6)-2 & (b)(7)(C)-2 Thank you, Sir.

BY MS(b)(6)-2 & (b)(7)(C)-2

[U] Q. All right, Sir, I am going to just jump right in then to some of the findings that were made in the report and just ask you some clarifying questions about some of them and just give you an opportunity to comment on them.

[U] A. Okay.

[U] Q. The first one, Sir, "The Commander and Deputy Commander of CJTF-7 failed to provide proper staff oversight of detention and interrogation operations." And that was a finding in both your report as well as the Schlesinger Report. Sir, we have reviewed a lot of these reports and we are aware of some of the mitigating circumstances, that were present at the time that CJTF-7 was--was conducting these operations. And we are familiar with the resourcing issues, some of the personnel problems, the operating environment, and how there really never was a transition to Phase IV.

[U] A. Right.

[U] Q. And security and civility operations. So given that, can you tell us specifically in what way General Sanchez failed to provide proper oversight?

[U] A. First I think as we all believe both in our hearts and by orders that Commanders are responsible for everything that it done within their command.

[U] Q. Yes, Sir.

[U] A. So it emanates from his overall responsibility within the theater of Operations for which he was assigned to command. Second, the responsibility of the Commander is more than just what explicitly is written. It is also implicitly what you need to be able to ask the right questions of

Staffs to get the responses that you need. And third, and this truly isn't a lack of the--of responsibility it's the--it does pertain more to the conditions. But the mission that he was given in retrospect, it was the wrong mission and it was never challenged. I was reminded of that in-- when General Abrams, Senior, Creighton Abrams, took over the command of--in Viet Nam, he asked the question what was his mission. He was never given one. So Westmoreland was operating as the Commander of the United States Army-Viet Nam, without a Mission Statement. The first question that Abrams asked when he took over was, "What's my mission?" And it really changed the perspective of it. So that has flavored I guess my thinking in this from what is the Commander's responsibility.

[U] The assumptions that went into Phase IV, that you would be in stability and support and the mission to send people home turned out to be wrong. And in fact he was in an insurgency operation which increased in intensity during that entire peak period and the people that were being sent home needed to stay. Military Police, check points, who were responsible for detention facilities in this particular case and then the Military Intelligence organizations necessary to build the intelligence picture, that was theirs. So that's sort of an overarching statement of the conditions in which he was operating. And then clearly if we had put him through a BCTP type, Battle Command Training Program type exercise I think this would have all come out. The mission and task would have been reviewed in some detail rather than taking a Division Commander, throwing him into a Corps Commander Headquarters, taking away half his staff; and saying you now have a mission as a Combined Joint Task Force Headquarters.

[U] And so the conditions made it extremely difficult to go back and do that kind of a BCTP type analysis. A rigorous task analysis of the missions that would have resulted in answer--asking the questions, should I expect that the number of detainees is going to increase or decrease? Should I have the right--do I have the right command structure? Do I have the right missions assigned to CFLCC and CJTF where we had the 800th Military Police Brigade assigned to one Headquarters and the Military Intelligence Brigade assigned to a second Headquarters with the responsibility delegated to a Deputy. Were those subordinate Brigades?

[U] And that part was not done. Now, while we criticize both General Sanchez and General Wojdakowski on that process, we didn't give them the time or the resources to do it either. And so while we fault them as being the Commander and Deputy Commander, it was much more the environment that we threw

them in. But in the end they're accountable for their command and you cannot take that away.

[U] Q. Yes, Sir. You said earlier in your statement that CJTF-7 was given the wrong mission. What was that wrong mission and who in your view gave it to them? Was it difficult to state it or did it--

[U] A. If you go back and look at General Jones' report and he went back and looked at all the orders and FRAG Orders that were given. It was the basic order that was prepared for Operation Iraqi Freedom which was a phased operation. General Sanchez was given the mission of assuming command of first V Corps. Then within a few days, V Corps being disestablished and reestablished as a Combined Joint Task Force, without a new mission statement and without a new order being given. And so the Phase IV operation of the original mission said that he was to conduct stability and support operations. Support the Coalition Provisional Authority, Ambassador Bremer, and return forces. And that mission statement was not reviewed at that time or asked whether or not it was still current.

[U] Now, implicitly the actions that General Sanchez took it was clear that he understood that he was not in stability and support. That he was in an insurgency and his actions reflected his understanding of that; and his actions to build an intelligence picture so that he knew the appropriate missions to assign to his subordinate commands were in accordance with that. So he behaved as if his mission were stated differently but in fact the mission that he was given was not ever revised.

[U] Q. All right, Sir, can you think of anything specifically that he should have done differently? Either he or General Wojdakowski?

[U] A. I think he should have gone back to originally General Franks and then later General Abizaid and said we ought to restate our mission. And in that staffing function he also should have said, and I think General Abizaid saw this, in the command structure that is created now that he needed to establish a different command structure to conduct the missions both with CFLCC and in support of Ambassador Bremer and the CPA. And what we found is that the mission statement telling him to do both stability and support what became in fact conduct insurgency operations or counterinsurgency operations and the mission to support Ambassador Bremer were unresourced. He did not have adequate resources to conduct both of those missions.

[U] Q. Did General Sanchez----

[U] A. I shouldn't say unresourced. Under resourced.

[U] Q. Yes, Sir, did General Sanchez recognize this and make attempts to fix the shortfalls? In your view did he do that adequately?

[U] A. Yeah, I think he did. I mean he clearly recognized it based on both his statements and the discussions I've had pursuing that with both he and General Abizaid in terms of what they saw happening and then listening to his staff. And the actions he was taking. I don't think he was perhaps adamant enough about really forcing the senior Commanders to restate his mission though and then relook the resourcing of that, with the real mission in front of him as opposed to the assumed mission that in the Phase IV part of the operation.

[U] Q. Yes, Sir. A similar question then for General Wojdakowski. Can you think of what specifically he should have done differently given that he had the responsibility of direct oversight of those two Separate Brigades?

[U] A. And this is very easy to say retrospectively and very hard to do, because I met with him a number of times on other issues during that period. He was overwhelmed with things to do. He should have done, one, the same thing I just suggested as to General Sanchez. As his Deputy he should have got back to General Sanchez and say we need to restate our mission and relook these. These tasks that we've assigned. And I think out of that would have come a new command structure where the MP Brigade and the MI Brigade would have fallen under the same command structure and a single person would have been put in charge of both. In particular when you take it one notch down and--and if you look at where General Wojdakowski was focused we had a staff running Military Intelligence Operations and we had a Commander, MP Brigade, running Detention Operations and they weren't integrated. And that was--that's both a failure of our own doctrine and training I think to bring those pieces together as well as the command relationship that was established there. Not challenging what they had in front of them saying this is not effective.

[U] Q. Sir, you said that they had a staff running intelligence operations whereas they----

[U] A. Well you--if you can find a set of orders that assigns intelligence to a commander at Abu Ghraib I will be amazed. They created a JDIC. That was a staff function. They reported back up through staffs through the intelligence operations. And so the MI Brigade Commander was never assigned a

task or a Battalion subordinate commander of conducting intelligence operations in terms of interrogations. It was assigned to a JDIC which never really grasped the mission. And that was one of our issues with Lieutenant Colonel Jordan, who never acknowledged the fact that he was given the mission. There was no command structure underneath that where you have Company Commanders and First Sergeants overseeing their personnel. And that's really the nature of the way we have done our military intelligence operations almost historically. Where we break them down into Teams and task organize them and they lose that command structure. It was very clear on the Military Police side that you had a MP Brigade which was responsible for detention. It was less clear then on Military Intelligence side who was in charge of interrogations. And it became a staff function rather than a command function. In my view it should have been assigned to a Military Intelligence Battalion Commander.

BY (b)(6)-2 &(b)(7)(C)-2

[U] Q. Sir, let me follow up on that. The answer can be one of two. Who do you believe the JDIC worked for? It sounds like you believe they worked for the CJ-2. Is that correct or did they work for the 205th?

[U] A. Well, I mean we kind of drilled that. They really worked for the Three. Operations are--come under the Three, but it was never clarified that way. Miller was never given that real task of pulling those as an operational consideration to give that mission until they sent General Miller back over there and said you're in charge of detention and interrogation. That was not done.

[U] Q. But at the time--at the time of your investigation, Sir, --

[U] A. It's unclear who was in charge of Military interrogations.

[U] Q. Unclear.

[U] A. Because it was done as a staffing function with information it collected--now they created a JDIC but find an order that says who does the JDIC report to. Where is a Commander involved in that? In that chain of authority. There isn't one. Its reports that are provided through a staffing function.

[U] Q. Sir, if I were to make the statement, the JDIC worked for Colonel Pappas and it was a command function. How would you respond to that?

[U] A. I would--I would have said that that would have been a correct way to do it. I would have rather seen rather than Colonel Pappas that there'd a Lieutenant Colonel Battalion Commander as opposed to a--the JDIC staffing function. And we were creating an organization, the JDIC, which is an emerging doctrinal organization. Not one of which you can go pull out a manual and say here's how you do it. Here's how it's staffed. Here's how it reports. And then we put a Lieutenant Colonel in charge of it who never acknowledged. Who hasn't at least to my knowledge has never acknowledged the fact that he was in charge. The staff, anyone on the staff, we talked to never thought he was. Now--and then Pappas, was given--still had authority and responsibility across the entire Country or Iraq for the Military Intelligence activities. Not specifically for interrogation activities And so I--I never found any order unless you could show me something that said that you know the JDIC reports to the MI Brigade.

[U] Q. Did you have the opportunity to discuss that with Colonel Pappas, Sir?

[U] A. I did not. No.

[U] Q. So you don't have any insight as to what he might have believed as far as his ownership or responsibility?

[U] A. I think he felt ownership for all the intelligence interrogation operations. The JDIC being one of them. But there are no orders specifically that I know of that directly say that. I mean the MI Brigade was assigned a number of missions but they covered the entire operation and then he specifically then was given a second in the FRAG Order that directed him to be in charge of the security. Not interrogation at Abu Ghraib. So you have kind of an overarching order where you would--you would assume that there's an implied mission that all interrogations are to come through him as a tasking. But there's no specific order that says once we created the JDIC that it reports to him.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, the interrogation policy letters that we'll talk about in more detail a little bit later, included language that indicated that the 205th MI Brigade Commander would ensure that the interrogators were trained for those specific techniques. That he was responsible for interrogation plans; that he was responsible for certain levels of approval for certain techniques and insuring that the various controls were in place.

And that's--that's in the policy letter signed by General Sanchez. So----

[U] A. Not early on but later on.

[U] Q. Right. I'm talking about the September letter and the October letter. Which would lead one to assume that the 205th MI Brigade Commander had responsibility for those interrogations.

[U] A. I agree. I think he had responsibility for all the interrogations that were taking place throughout the country not just at Abu Ghraib. I don't think there was any question about that.

[U] Q. Yes, Sir.

[U] A. The problem that I have with chains of authority and command is that the JDIC--there is no chain of command that the JDIC falls under and there is no--the problem--and this is not specific just to this MI Brigade, it's the way we've orchestrated all of our Military Intelligence over a long time. The chain of command disappears. You break them down into teams and these teams--and in this particular case were created out of ad hoc organizations because they just got people with the right MOS from different command structures and put them into this organization. So the part that fails in my test of this is that there's no order that assigns a commander in charge of the JDIC, whether it's a Lieutenant Colonel reporting to that MI Brigade Commander, with Company Commanders responsible for the oversight of how those Soldiers assigned there would behave. In our Military Intelligence organizations historically this has never captured that and we've never really put them under the pressure that they were here to reveal some of these challenges. That's my opinion.

[U] Q. Yes, Sir, where should that order have come from?

[U] A. Well, I think the order should have come out of the CJTF Staff, and that's one of our recommendations that they should have written clear orders on how that chain was to work, and that did happen afterwards. There was a new order written.

BY COL. (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you mentioned earlier General Miller, General Tom Miller's----

[U] A. Right.

[U] Q. --responsibility as the operations guy to overwatch the detainee and interrogation functions. Did he have a responsibility in the interrogation function as the C-3 in your mind?

[U] A. None that was evident in my mind. He had a responsibility from an operational standpoint to assign missions and tasks and resource them. And I--and I didn't--you know I don't think that ever got there.

[U] Q. Much of what we've learned, there is quite a clear picture painted in the minds of folks we've talked to about a clear delineation of CJ-2 responsibility for interrogation operations versus the C-3 responsibility for detention operations. And most people seem to paint a pretty clear separation between the two as far as what General Fast's responsibilities were and General Miller's responsibilities were. Do you see those in the same light, Sir, or do you think C-3 should have had a greater role in the integration of the intelligence and interrogation aspect?

[U] A. I agree with you on all the things that we found on how people saw the C-2/C-3 roles. I do believe however that the C-3 should have had a stronger role in bringing those pieces together. Not keeping them as separate staff functions. And it's very clear when you go back and you ask, in our view, my view personally, from all the reports and investigations that the Military Policeman were receiving directions from Military Intelligence Personnel. But neither of them truly understood on either side of their areas of responsibility what their boundaries were. And that was both this lack of an integrated C-2/C-3 approach to interrogation processes. And a doctrinal and training problem that we have the way we train detention operations and intelligence operations.

[U] And one of the things that we found is there is-there had been n annual exercise where they should have come together and it didn't occur. So these units had not worked together; and therefore when you separate them in C-2 and C-3, kind of world one for detention and one interrogation, the boundaries between them were unclear. And so if a MI person-it could be a contractor not just a Soldier-told a detention Military Policeman to do something, it was unclear to them as to who really had the right authorities. And it's a murky area I think that we're all trying to sort our way through in this particular one because it's one that doesn't happen very frequently where you have this large scale kind of an operation under these types conditions.

[U] Q. Well one of the challenges we have obviously is a lot of decisions and a lot of events converge around this whole JDIC situation.

[U] A. Right. Yes.

[U] Q. And that's--obviously that's one of the places where we're trying to get greater clarity.

[U] A. Right.

[U] Q. I think we have a pretty thorough understanding of what people did. And what people believed they should have done, but what we're trying to get some assistance on is what folks should have done.

[U] A. The 'should have' one becomes one of interpretation because there is no doctrinal organization processes to deal with the JDIC, and so we were creating that as we were going. I say 'we' the CJTF was doing that. And I think the abilities that General Fast brought into it when she was asked mid-stream to come in and set this kind of an operation up were all done with the best of intentions and the best capabilities that could be brought to bear in there. Where we came up short is since nobody had an established organization or chains of command is how that the pieces were to fit together. And we further complicate that when you bring in the CIA and other organizations who would intervene in this process periodically who were not in that chain of command either with the ISG piece completely set aside reporting to CENTCOM.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, what responsibility in your view did General Fast have to establish that chain of command or chain of authority at the JDIC?

[U] A. In my view she had a staff function to provide military intelligence, analysis, and advice to the Commander. And the Commander then has to--a staff officer of any rank cannot write an order unless it's delegated to them and it was never delegated to the C-2 that you can sign an order to do that. C-3 normally is the person who is issuing orders. Not the C-2. So she was doing the staff analysis, building the structures, making the recommendations and doing it. And I think as you've reported and found reported that there was a distinct distinction between the two. They never really did come together where the C-3 picked up any staff integration requirements. So, okay, the C-2 says they need X number of people to man the JDIC

and we need another number of people to man the detention operations; and there is some interface between those two where somebody may come out of the JDIC and say put this person into solitary and so there's an automatic establishment there de facto. But there is going to be some interchange between those two functions. And that's the part I think we have not come to grips with is how that should occur.

[U] Q. Yes, Sir.

[U] A. And the only way that you, as a Commander, can fix that is write an order. That says this is who will be--make the decisions and who will be in charge. Is it the Lieutenant Colonel who is running the JDIC or is the Lieutenant Colonel who is running the detention facility; or is it the Colonel who is out there running the MI Brigade? And that's part that from a strict command and orders that I found to be missing in this structure.

[U] Now, I don't know if you have any evidence of anything different but I couldn't find any.

[U] COL. (b)(6)-2 & (b)(7)(C)-2: I don't know if I could say I've seen something like that at this point or not.

[U] MS (b)(6)-2 & (b)(7)(C)-2: No.

[U] GENERAL KERN: After the fact there's been stuff done.

[U] MS (b)(6)-2 & (b)(7)(C)-2: Right.

BY COL. (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, at the time, CJTF-7 was new.

[U] A. Yes.

[U] Q. People were new. They went into what they believed was one situation and obviously encountered something else. Given all the operations that were on-going at the time, the search for WMDs, the search for all the folks in the deck of cards--

[U] A. Right.

[U] Q. The reintegration of Abu Ghraib under the Iraqi National Prison System and the growth of the prison population, should those kind of decisions been apparent at the time, do you think, given the complexity of the situation and

what officials such as General Sanchez and General Wojdakowski knew at the time?

[U] A. That's a difficult question. And if I could just put a footnote on it. I just had, yesterday, spent briefing the Abu Ghraib findings to a group out in the West Coast. And the former Secretary of Defense Bill Perry was there. And he asked me the question. He said, "Did anybody highlight what would happen after the Baath Regime was taken down and the Iraqi Army was defeated in terms of insurgencies and potential for detainees et cetera?" And I said, "Not to my knowledge." I wasn't part of the early staff planning so I don't know what occurred in all of those discussions nor did I find any of that in our investigation. And his comment was, "Going into the Balkans when we sent the 1st Armored Division in we spent an awful lot of time discussing that that was going to be the outcome, insurgencies, detention operations, et cetera." Which raised another set of questions to me did that occur. And I don't know that it did. And I think our focus had been on--and this is an assumption I'm making. That we looked at defeating the Iraqi Army as clearly the primary task at hand when Iraqi Freedom was initiated. And so the CENTCOM focus was on Phases I, II, and III. I think there was an expectation and since I wasn't part of it nor did I see any evidence of it, this is an assumption on my part. That it was going to be much like Desert Storm when Phase III was completed. And that you're going to have a large number of EPWs not detainees. And that you would decide what to do with them and then they would go back into the general population after some agreements were made. And we would have peace, stability, and support. Not an insurgency. And so I have to believe that based the way that order was written that's the way the thinking went and that's the way the discussions were promulgated. Not around the fact that there was a highly--high probably that an insurgency would occur and that there would be a large number of detainees who we would have to deal with after the defeat of the Iraqi Army.

[U] I also gave the Kermit Roosevelt Lectures in England this past spring. And I was challenged by the-this was April before I was given this mission. I was challenged by some of the students there. Their War College is the equivalent National Defense Universities. Why weren't we prepared for the insurgency? Why didn't we know this was going to happen? And in the British planning, documents, they had those assumptions. I don't believe they were in ours. At least I don't--I saw no evidence of that. Both by the orders that were written and by the actions that were taken. And so I had in two cases I've been questioned since then why weren't we more prepared for these types of insurgency operations and detention capabilities, and I have to believe based on what I know, that we did not adequately

assess that part of the situation. And so the organizations that ensued were not adequately structured to take into account what happened.

[U] We didn't--we established the CJTF but we didn't have a Manning Document for a CJTF. The orders that sent Military Police home and not prepare for future detention of larger numbers. We did not go out and prepare for intelligence collection operations to determine the leadership and targets of the insurgency. All of which were things that General Sanchez did. But he did it based on events that were unfolding and implied tasks that he had rather than on orders that were given either originally or subsequently.

BY COL. (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir, when you speak of planning for this potential insurgency, can you differentiate between CJTF-7, CFLCC, or CENTCOM responsibility in regard to recognizing that potentiality?

[U] A. The way we established the borders between CFLCC and CJTF-7, which nobody I think was terribly comfortable with retrospectively, where CFLCC was responsible for everything south of the Kuwaiti borders and CJTF-7 everything north, and then you had an MP Brigade that was split between them, suggests that CFLCC was sort of cut out of the operational side of it during that period. They were part of it up till the Phase II, Phase III, and in Phase IV were cut out of it. And so the players then are not CFLCC. They're the CJTF-7, the CPA, and CENTCOM. And I don't know--understate that because I think Ambassador Bremer and the CPA played a large role in direction given to General Sanchez. And the amount of time and resources he spent responding to that. In his Mission Statement, going back to Phase IV Operations, said support CPA.

[U] Now, where you start getting into, now okay let's back off to say we're a CENTCOM's role. Now, CENTCOM then had an integrating responsibility across that, but they also had to deal with the Horn of Africa, they also had to deal with Afghanistan, their Headquarters. But between Qatar and Tampa, not being in the Baghdad area, ended up defaulting many of the assessments and decisions directly back then to General Sanchez and Ambassador Bremer working together. Could have and should have CENTCOM played a stronger role? Yes, I think they should have.

[U] The ISG reported to them, not to Sanchez. And so you had a split there of intelligence activities as you suggested with a focus on WMD and other fifty-two high priority targets. It was a great frustration in talking--and I did not

talk with General Franks, but talking with General Abizaid of the lack of cooperation with the ISG in supporting his operations. They had--they were far better resourced at the proper level with the ISG than they were at Abu Ghraib with the CJTF-7 efforts and so that was a frustration that he displayed or he reflected.

[U] And then you had--so you have in the middle of it, Bremer and Sanchez almost co-equals in terms of it, but by the way we operate, we look at the Ambassador role that Bremer was playing as being the "Senior Country Team Leader." And so there's almost an implied role there of subordinating the CJTF to the CPA. I say 'implied' not 'stated' because it said support. It didn't say you're subordinate. And so CENTCOM therefore should have been the integrating Headquarters to play a stronger role in that. But again, we had a change of command and a change of structure taking place there with General Franks departing and General Abizaid coming in. So that--you had lots of transitions. I mean one of the things you might want to do is, is just stack up the number of transitions and changes that were taking place--

[U] COL. (b)(6)-2 & (b)(7)(C)-2 Sir, we've done that----

[U] A. --through out that whole process. And look when these things--when these events occurred and it's all during this period of transitions of Headquarters and lack of clarity as to who was responsible between CJTF-7, CFLCC, CENTCOM, CTF. And so there's a lot of confusion. Now, and that was one of our conclusions. Who is in charge? Not clear. Particularly the interrogations side of it.

[U] MS (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Sir, some have argued that in retrospect, General Sanchez and perhaps General Wojdakowski should have--and I don't really want to say "seen this coming" but should have seen these indications and warnings that surfaced at the CJTF-7 level that indicated there were problems at Abu Ghraib. And the incidents that were cited in your report included the incident at Camp Cropper, the ICRC Reports at Abu Ghraib, the CID Investigations that were going on; specifically at the point of capture types of abuses.

[U] A. Right.

[U] Q. That were happening then. The death of the OGA detainee at Abu Ghraib and so on. How would you characterize that, Sir? Should--should General Sanchez have----

[U] A. Retrospectively there were lots of warnings. That's what we said. Retrospect is wonderful for all us, right?

[U] Q. Right.

[U] A. My view is that the staff did--there's two things that happened to General Sanchez and General Wojdakowski that were unfortunate. Retrospectively. One, they were overwhelmed with things to do, and under resourced to do them. And so they were trying to divide their attention between supporting the reconstruction of Iraq and support of the CPA and the building of the Government, and conducting military operations. And there were not enough--there was not enough time in the day or people to do both. I'm not even, I think today, with finally with two Headquarters there, we're probably structured to do that. But clearly we were not during this period.

[U] Secondly, we should have taken the time to do a thorough mission analysis and do some rehearsals for General Sanchez taking command of the CJTF. That didn't happen. It would have even been worse if we hadn't saw that in order for General Sanchez to take over the CJTF he had to be relieved by Harold Dempsey. General Dempsey was working for me at the time in Saudi Arabia. And had just been attacked. He just had thirty people killed in the terrorist attacks that took place against his contractor support for MELCO Corporation.

[U] Q. Which corporation, Sir?

[U] A. In Saudi Arabia. This is OPM-SANG that's where General Dempsey was assigned. He was conducting a NEO.

[U] Q. Right.

[U] A. I called up Franks and said, "Hey, time out." He can't pull Dempsey out of here now to go change command with Sanchez. He's got a military operation he's conducting. And Franks said, "Yeah. Okay. I agree." So that was delayed. But we were in a--we trying to push the change of command of getting Rick Sanchez into command of the CJTF without giving him all the preparation that we give every other Corps Commander. And this more, far more complex, than a Corps Command because we were also bringing in the Coalition Forces under the Polish Multi-National Division. So as the CJTF Commander he had to reorganize a Staff; build that command structure; and he did it without the benefit of doing the rehearsals and mission analysis that we would do prior to that type of operation. And perhaps that's a process problem that we have to do in-stride changes, and to really keep all that in focus on how much you're asking one person to do. One staff. Who had just fought a war and half of them had gone home. Wojdakowski happened to be one of the few that remained. He had a Chief of Staff of the CJTF who I never met because he spent his whole time with Ambassador Bremer-a Marine. And you had people

who were coming into organizations like a CJTF without a Manning Document, a JDIC without a Manning Document. And the pace of operations during the entire period is increasing.

[U] The tempo just keeps building and building and building. So instead of detainees going away, detainees are increasing. Attacks are increasing. Who's causing the attacks? Unknown. Have to build the intelligence picture. So while we're critical of the Commander and the Deputy Commander and the staff, they were overwhelmed with things to do. I mean absolutely. I mean I saw that every time I visited. Every time I visited Rick Sanchez before the investigation he was just more and more tired. Okay? And he was just burning the candle at both ends.

[U] Q. Yes, Sir.

[U] A. And he in retrospect--and you look at the documents and he wasn't--it's not that he wasn't paying attention to Abu Ghraib. He was telling people treat prisoners, detainees, humanely. Abide by the Geneva Conventions. Improve the security at Abu Ghraib. So he personally was doing things and seeing things. But what failed to happen is; now the simple fact that the ICRC reports had been put on his desk, I think by an IG independent of the rest of the staffs who might feel some responsibility for not properly resourcing for doing it and say you've got a problem. Well and we need to do something. Never happened. Not until after we had the young Specialist report that there were abuses taking place.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. And of course that wasn't their procedure at the time, the ICRC Reports were being handled at lower levels.

[U] A. Right. And I just think that's flat wrong.

[U] Q. And I believe that General Sanchez changed that process after this?

[U] A. After. Right. He did. And you know we ought to view--and you know I view IGs, my IR organizations, all of our independent review we have as a Commander's benefit. A plus not as a minus. And we should be using organizations like that and also you have another independent organization the Red Cross. We don't always agree with the Red Cross. I mean sometimes they make crazy recommendations that we ought to be feeding people you know filet mignon and living in air conditioning et cetera when our Soldiers are living in the dirt and eating MREs. That's a little bit of an overstatement but sometimes their recommendations are pretty wild. But they ought to be viewed as by the Commander as

an independent group looking at how we are perceived by the world. And that didn't happen. Not until as you suggested after. And so I think that's one of the real shortcomings is that the staff held this stuff as a staff function. Of well that's probably not really going on. That's not true.

BY COL. (b)(6)-2&(b)(7)(C)-2

[U] Q. Two things we learned there, Sir, I'm interested to hear your comment on. One was as (b)(6)-2&(b)(7)(C)-2 mentioned that was--that was the ICRC process at that time.

[U] A. Yeah.

[U] Q. But that was designed to be given to the lowest level commander responsible, and the staff people that assisted in making those replies were doing that were Assistants. That procedure has since been changed.

[U] A. Yeah. Right.

[U] Q. Secondly some interesting comments we heard were that, some of the folks who read that report simply did not find it believable. Some of the stuff they read, they just felt was so outlandish that it could not have possibly been true because we asked some of those questions.

[U] A. Yeah.

[U] Q. You know did you see it? Who did you talk to? And--and those were some of the responses we heard. And I wondered if you had heard anything similar to that?

[U] A. Exactly the same. Exactly the same thing. Yeah, the process caused the reports to get staffed. People were unbelievers. And nobody went down to check it. Now could this possibly be happening? And the other assessments that I've got is they said if you believe that independent--number one, we use the Red Cross to help our Soldiers. And we have people who are captured then one of the first things we ask is for the Red Cross to go see them and report back to us. So why wouldn't we want to have that same visibility on the other side? And so it was--the process was--you know, and it's easy to go back in retrospect. Well that was just not good. It did not help General Sanchez. It did not help the US. Whether the reports are outlandish or not, we ought to say well this is an independent body which the rest of the world believes that we ought to go see for ourselves what's going on at the Command level not the staff folk. And so I--that is one of the I think the real places where we undermine

General Sanchez' ability to take the right action not giving him that report and say, "God, look at this."

BY MS (b)(6)-2 & (b)(7)(C)-2 [redacted]

[U] Q. Sir, whose responsibility would it have been to change that process so that reports did come to General Sanchez?

[U] A. All of our staff's processes are generally under the supervision of the Chief of Staff.

[U] Q. Yes, Sir.

[U] A. Where they run the staff functions with change processes like that, but in this particular case, as I said, the Chief of Staff was supporting Ambassador Bremer so you end up then with Wojdakowski almost becoming a de facto Deputy and Chief of Staff for the Military Operations. And so you could say that the Chief of Staff should have done that, but the Chief of Staff was assigned something else to do. And so it defaults itself back to the Deputy.

[U] Q. And did you note any evidence where General Wojdakowski was involved at all in reviewing Red Cross Reports?

[U] A. I did not see where he ever got the Red Cross Reports, no.

[U] Q. Yes, Sir.

[U] A. As far as we could determine is the most senior person that ever saw the Red Cross Report before all the abuses became apparent was General Karpinski.

[U] Q. Did she have a duty to notify General Sanchez in your view?

[U] A. She should have. Absolutely. And she had the responsibility for running the detention operations. That was clear. Her Commander, the Lieutenant Colonel, who was relieved, understood and all the Colonels who were in the Military Police, not just the Colonels but all the Military Police, understood that they were responsible for the care, feeding, welfare of the detainees. And when that report came to her, she should have, in my view, taken it directly to Sanchez, Commander to Commander and say, hey, we have a problem.

[U] Q. All right, Sir. Sir, changing tacks a little bit here. One of the findings in the report was "Leaders failed

to take steps to effectively manage pressure placed upon JDIC personnel. Leaders within the MI Community commented upon the intense pressure they felt from higher Headquarters for timelier actionable intelligence. And these leaders stated that this pressure adversely affected their decision making." From our discussions with some other witnesses, the prevailing opinion is those leaders had failed to effectively manage this pressure were pretty much at the 205th MI Brigade level on down. Do you share that view or--

[U] A. Yes. And it has two parts to go with it I mean because there--as I said there was no chain of command there in the MI Brigade. So normally you would expect a Battalion Commander to protect his Company Commanders, and his Company Commanders to protect their Platoon Leaders; and the First Sergeants. Et cetera in the same chain of command. But that's not the way the MI Brigade is organized. You know, they--and I said in one of the earlier discussions we had they never assigned a mission of interrogations to a Battalion Commander and said you're responsible for all interrogations. And so the Brigade Commander who had responsibility for the whole country then became the only one there who had that mission. And that became just a mission far greater than any one person could handle. So the, , you know I just think the way we were structured there failed us.

[U] Q. Sir, whose responsibility should it have been to place a Battalion Commander in charge of the JIDIC?

[U] A. Pappas.

[U] Q. Yes, Sir. Okay. Sir, let's talk a little bit about the TACON relationship between the 800th MP Brigade and CJTF-7. That's generated a lot of discussion amongst folks on whether or not that was a proper relationship and whether it was dysfunctional and did that dysfunction somehow contribute directly or indirectly to the abuses. Would you like to comment on that?

[U] A. I think a lot of the discussion is smoke. I mean if--whether you're TACON, OPCON, or attached or whatever, your command relationship is with a higher, if things aren't going right Commanders need to take it to the next level of their command for action regardless of the relationship. And so, you know, we have this all the time. When you--when it's habitual and you're use to it. Where you have FSB Commanders that are in support of, direct support, but not attached to Brigade Commander. And they take mission statements every single day from a Brigade Commander. If it really gets out of hand, they go back up to the DISCOM Commander. The same thing is true with our Air

Defense Battalions or MI Battalions. We have all these people broken out and the command relationship are TACON or some other, OPCON or attached but not very infrequently attached directly.

[U] In every case my experience has always been if things aren't going right the Commanders go back to their Senior Commander who can implement a change and say, fix it. That's a command responsibility that we all have. And so this thing about TACONs and OERs and all that to me is while from a direct authority and perhaps a legal standpoint correct, from a Command responsibility standpoint I don't believe is pertinent. I just--that's the way I've operated as a Commander through my career. Is hey, if I get some Battalion Commander, for which I have an element working for me, who may have no command relationship, but he happens to be in my area and it's not right, I'll pay attention when he comes in. And says, hey this is not right.

[U] Q. In your view would General Wojdakowski and General Sanchez have responded to General Karpinski if she came to them for help with resourcing even though technically her chain for support actually went back to the 377th?

[U] A. Yes. I think. And clearly----

[U] Q. They argued that they did.

[U] A. And there's a couple of--there is a couple of cases there where Sanchez would say, she should have been standing on my desk saying, "Hey, you dummy, you know we've got some problems going on down here and you need to do something." And that's--I don't think that was very comfortable for her to do that. You know, and so you could fall back, well I really belong to CFLCC. She wasn't getting orders from CFLCC. That the detention facilities weren't in CFLCC's area of responsibility. Nothing that was relevant was in the CFLCC area of responsibility. It was in the CJTF. And so she really didn't, in my view, have a choice but to go to Sanchez and say, "Look you've given me these missions. You have not resourced me to do these missions, and so I've got to change something or you're going to have to move...." She also took no opportunity to move people. She could have moved some of the people who were at the detention facilities up north or down in Bucca to Abu Ghraib.

[U] Q. Why didn't she do that, Sir?

[U] A. I just--that's a wonderful question. It's a failure I believe on her part to say okay, if you're going to go to the Commander, and say, all right, Sanchez, you've given me a mission. It's a mission which I can't accomplish. Here's what

I've done. I've taken every resource that I own and I've given--I've reallocated them so that I have given Abu Ghraib absolutely the most resources of any place I can. The only place left is the Camp Cropper of the ISG and I can't touch them because they've been directed there by CENTCOM. I need your help. We cannot conduct this mission. He couldn't, I mean he couldn't have ignored that, if she did that. But first you have to do your part say okay what are the resources I have at hand? How can I best reallocate my resources? And then how do I then want when I'm out what do I do next? Only one choice. She could have taken McKiernan with her. Said, okay, Boss, you and I need to go talk to Sanchez. I mean there's lots of ways you could do that. But you can't just sit there and not do anything.

[U] Q. Is that what it appears she did, Sir?

[U] A. In my view.

[U] Q. Did you come across any evidence, Sir, where she went back to the 377th? Her immediate higher Headquarters and asked for help, asked for resources?

[U] A. I couldn't find any. But the 377th is another story. Now I didn't investigate that.

[U] Q. Right.

[U] A. But, no, I dealt with them all the time in my role as the AMC Commander in terms of--that's where all my people were attached.

[U] Q. Right.

[U] A. And they were overwhelmed by their mission of just trying to provide the logistics support into the theater and that was just overwhelming for them.

[U] Q. In your view did they 'fail', and that might be a harsh word, to provide their doctrinally required support of the 800th MP Brigade in terms of logistics and personnel and administrative support?

[U] A. I did not look at that. So--but my judgment probably is yes, they didn't provide it. But I don't know that they were ever asked either. I saw no evidence that Karpinski went back to the 377th, either to the Commander or the Deputy, whoever was there at the time and said, hey, you know give me some truck drivers to go secure this prison. I don't have enough people. I saw no evidence of that, but I didn't investigate that

part of it. So I'm just giving you that as my perception from my dealings with the 377th.

[U] Q. So, Sir, the report said that this TACON relationship created a dysfunctional relationship for proper oversight and effective detention operations. Can you pinpoint for us where it became dysfunctional? Because you're already--you've kind of clearly laid out that----

[U] A. It was dysfunctional.

[U] Q. Right. But it--it probably shouldn't have been given the normal command responsibilities that----

[U] A. Right.

[U] Q. --Commanders should take.

[U] A. Right. I mean where it fell down is again it goes back to the assumptions of what Phase IV was going to be. And this whole piece kind of started snowballing on people by the time it got to the end of the summer and into the fall when the majority of the abuses took place. And so if your assumption was that we're going to be in a--it is Desert Storm II, and when it's over, it's over. And then you start sending people home. And a new Commander shows up, Karpinski, then everything looks like okay, now this is going to be a piece of cake. And each day it starts growing on you. It gets worse. And then by the time it gets to the point by late summer or early fall, August-September timeframe, where the numbers start increasing, the attacks start increasing, you have all these changes taking place at all different levels throughout the organizations. I don't think that General Karpinski had the perspective to even ask about TACON versus attached versus OPCON. She went and did her tour of the theater. Talked to Wojdakowski, understood what the mission was and never went back to challenge it, not until after the fact when people started pointing fingers at her. Then she said, well this relationship was all screwed up.

[U] So I don't--I'm not sure that she really--and we didn't--I didn't ask her, and I don't remember General Fay's many hours and pages of interrogation of her after the fact that he went back and asked her, did you ever ask for that relationship to be changed. I just don't think that happened. So when you say it's the wrong relationship but you never ask for somebody to change it, again it's the same as the resourcing problem. If you're given a mission and you take all your resources and do the best you possibly can and are still short, then you need to go back. So if it was the relationship or whether it was the resources, in either case she either needed to

go back to McKiernan, Wojdakowski, or Sanchez or all three and say this is broken. Fix it.

[U] Q. So in your view was either----

[U] A. And I just don't think she had the wherewithal to understand that.

[U] Q. Yes, Sir, and that sort of leads to my next question, in your view, did General Sanchez or General Wojdakowski, did any of their actions contribute to the dysfunctionality, if that's even a word, or--it sounds like the brunt of that rested with General Karpinski. Her failure to understand what a TACON relationship meant, her failure to have the wherewithal to address the problems?

[U] A. In my view, the brunt of it did. On the other side, we--what we said--I think it was in General Jones' report was that General Wojdakowski having more experience than she did, being senior, should have changed either the relationship or just gone directly to the tasking through CFLCC or some other way, to fix the problems that were occurring. In my view, General Wojdakowski had so many other things that he was being asked to do, it was just one of the many tasks. And since he never got reported through him the gravity of what was going on, he never saw really why it was something I needed to put on the top of the list and go fix.

[U] MS (b)(6)-2 & (b)(7)(C)-2: All right, Sir. Sir, do you have questions along the same line before we talk about policy letters?

BY COL. (b)(6)-2 & (b)(7)(C)-2:

[U] Q. I do have a question related to --Sir, you brought up some comments about General Sanchez being moved into a position of Corps Commander and then CJTF-7; didn't have the traditional training and familiarization we give our Corps Commanders as part of that process. And the numerous transitions that went on during that period between leaders. I do want to ask you with respect to General Wojdakowski and Colonel Pappas. We've heard similar comments that General Karpinski was a new commander. Colonel Pappas was a new commander.

[U] A. A new commander, right.

[U] Q. Given this big mission not only in Iraq but at this particular facility. In General Wojdakowski's position, I think at the time he was just the DCG of the Corps. He had about nine separate Brigades----

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[U] Q. Given this big mission not only in Iraq but at this particular facility. In General Wojdakowski's position, I think at the time he was just the DCG of the Corps. He had about nine separate Brigades----

[U] A. Right.

[U] Q. --reporting to him. And I think some people tell us as many as about eighteen under CJTF-7.

[U] A. Right.

[U] Q. Some of the people we've talked to believe that given the situation where General Wojdakowski understands he has two new, Brigade Commanders, one who needs guidance. The other who would be more receptive of it and is seeking it. Both are new to Brigades. Both are new to this combat situation. Both are in this difficult situation at this prison. One with detention. One with interrogation. And with regard to General Wojdakowski's responsibilities as the direct supervisor and Commander of those organizations, did he do enough to recognize he had these two new commanders in this particular situation they were in to provide proper oversight?

[U] A. I mean retrospectively I would say, no, he didn't do enough. But I also don't know if he had enough time to do enough. I don't believe he did. With 18 Brigades, up to 18 Brigades, depending upon when and where you count them. He had somewhat of an overwhelming responsibility. And I can throw in LOGCAP issues, and I could throw in CPA issues, and I can throw in things that are not command but are delegated to him. He was acting both as the DCG and the de facto Chief of Staff within that organization. And I don't know what the other 16 Commanders were throwing at him. That were coming at him from all the different perspectives. The Polish Multi-National Division. What new dimensions that brought into it. You know so we asked him to do an awful lot. Far more I believe then was achievable by one person in a 24-hour day. So should he have done more? To answer that question is blatantly yes. Could he have done more? That's a different question. I know his personality. I don't know Karpinski's personality. But I'm going to guess that a Two Star six foot three male General who had just been through a war and a One Star Female, Brigadier, who just showed up are going to be a little bit different in personalities in how they behave and react.

[U] No, so I know if you want to get Wojdakowski's attention you know you had better cuss at him a few time, stomp on his foot, and stare him right in the eye and say, "Do it." I don't think--you know, Karpinski wasn't ready to do that. You know that's an Infantry Commander who is put in that mission and has just gotten six thousand things to do, and everyday the priorities on them are changing. Whether it Bremer. Whether it's the Poles. Whether it's logistics. Whether it's

operations. Or whether it's detention operations. And so he was trying to balance all those things. And that is, you know it was an almost an inhuman task to try to do all that.

[U] Q. And again the reason I asked we looked--we keep coming back to this Brigade level problem at the prison. And we're not trying to reinvestigate Abu Ghraib. We're trying to get a much broader look at what happened across Iraq and across CJTF-7. But when you get back reconstructing this whole thing and you can find a number of reasons why this occurred now with the 205th and the interrogation problems; and we looked to leadership and failures in leadership. That's why we get to General Wojdakowski. Because he was directly tasked with supervising those Brigades.

[U] A. Right.

[U] Q. Understanding what he was resourced to do. Understanding what he was charged to do, the question comes, did he fail in anyway in his responsibilities regarding, the supervision of those Brigades?

[U] A. In my view the answer is it's a matter of degree. He had, I don't know how many tasks he had on his plate. I was only investigating one Brigade. One aspect of it. So when you add it all up, it's a different question than when you just look at did he fail in the supervision of that Brigade. Those two Brigades.

[U] And--and in my view the answer to that is in the end, yes, he did. Otherwise these things would have been fixed. That's what people are paid to do. But when you put on top of that, the 16 other Brigades that he was asked to supervise and the twenty other missions that he was trying to accomplish, then the question is if I put the same lens on everyone of those other ones, I probably would have found other failures too. We put the lens on these two Brigades. Because that's where the abuses took place. He may have prevented ten other things from happening under those other Brigades and missions because his energy was going towards those. And failed to do it over there. So I believe that the failure is the one of his being adequately resourced to accomplish all the missions that he had, and having the staffs not providing him the right--and the Commanders not providing him the right feedback that says we need help. This is not going right.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, was there anything that General Wojdakowski could have done to get help? To help him to handle

this myriad of tasks that he now had? Was there something that General Sanchez should have done?

[U] A. Well, , you know, I--

[U] Q. I mean was the fact that----

[U] A. I'm second guessing Wojdakowski right now. It's easy to look back and say you know he should have gone back and done a lot of the things that we talked about in terms of reassessing the mission; reassessing whether we had the right resources to do it; and going back and asking CENTCOM, to help him with that mission. He could have, as you also suggested, perhaps gone down then to CFLCC and the 377th and said, hey, we need battalion support up here to keep the operations at Abu Ghraib. You know we need to relieve the MPs at some of the duties that we could assign to somebody else and let them focus on this. We could do the same thing with Military Intelligence. But it's very easy to sit here in judgment retrospectively not looking at how the other priorities were stacked up on his desk. On--the failure is that, you know, he never got that ICRC Report. And he never got the other indicators. Maybe he did some of the CID investigations that were going on. But the whole overwhelming number of missions that were being thrown at that organization where today we have two Headquarters.

[U] Now and we have, if resourced it a 100%, they're far better resourced than they were back in the time that this was all going on. Everybody else had gone home too.

[U] Q. Right.

[U] A. Yeah, think about what Wojdakowski said, "Hey, Wallace went home. Here I'm still here."

[U] Q. Yes, Sir.

[U] A. You know most of the--the one, two, three's had all gone home. He's still there. So it was he and McKiernan are kind of the guys left and they split their functions between the borders that they established so that their--the friction that was kind of where these things kind crossed back and forth was not adding to the ability to get it all done either.

[U] MS (b)(6)-2& Yes, Sir. All right. Sir, I'm going to go ahead and move on to the interrogation policy.

[U] COL. (b)(6)-2 & (b)(7)(C)-2 Sir, I think we're on your calendar until about noon.

[U] GENERAL KERN: I can stay as long as you want.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] COL. (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Thank you.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, the finding in the report stated that, "interrogation technique memos did not adequately set forth the limits on interrogation techniques. Misinterpretation of CJTF-7 policy memos led to some of the abuses at Abu Ghraib, but did not contribute to the violent or sexual abuses." And then later on it states, "Policy memoranda promulgated by the Commander of CJTF-7 led indirectly to some of the non-violent non-sexual abuses." What I want to focus on, Sir, is the part about the memos did not adequately set forth the limits on interrogation techniques. I've read the letters several times. And they are long and pretty involved. And to someone who is not a MI person, it seems like that a lot of limitations and controls are included in those letters. And that's just my view. What is your view, Sir? I mean in what way did those letters fail to adequately set forth limits? Can you think of any specifics?

[U] A. Yeah, very simply. They should have said abide by the Geneva Convention above all other things period. When all else fails go back to the Geneva Conventions.

[U] Q. In the first letter it actually does address the Geneva Conventions specifically on a couple of the techniques. You know where it warns that some other nations view this technique may approach violating the Geneva Conventions, so it would have to be used with caution. Those same cautions were omitted from the second letter.

[U] A. Part of the problem is that there were so many. Here's my basic thesis. You're an interrogator.

[U] Q. Okay.

[U] A. Okay. You're a twenty-year old female. You're going to interrogate some 40-year old grizzly old Iraqi. What rules do you use? Well I went through MI School and they taught me all these rules. I went through a lot of training. But those were about Prisoners of War not about detainees. Now this guy who goes up here is not wearing a uniform. So how do I treat him? What's the rules? Are they the same or are they different? Pretty simply it, you know, it should have been for you the twenty-year old they're the same. The thing we taught you. Yeah. Don't deviate. Okay? But what happened was there are these letters that, whether it came out of Secretary of Defense's Office, out of Guantánamo, out of Afghanistan; they're sitting in all of these computers down there. They're all reading all of these different things and saying, well I wonder if this applies or--so while they're doing these different letters, which were change, the official letters, and being drafted, they were conducting interrogations. With no specific guidance other than all these drafts of things that were going. And then some of these same Soldiers had operated in Afghanistan. Some of them. A couple had actually been in both Guantánamo and Afghanistan. And so you've got these young kids who are under pressure. That other point that we went back on. To get answers. Who have these multiple sets of guidance and by the time it finally comes out, it's so long and they've already read all these drafts all along; and it's just very murky to them.

[u] And so you've got a young kid who writes up an interrogation report that says I want to do something that's in violation of the Geneva Convention. And it's approved. Now do they know any better? No. Because they didn't--they had no clear guidance. You know after looking at all of these drafts; after looking at all these discussions; after operating in two or three different theaters to how they were really supposed to behave. When the simple statement, the simpler things are the better in life particularly when you're under pressure, is abide by the Geneva Conventions and you will do fine.

[u] That--I mean you've read through them all. Does that strike you as just being self-evident that I should just follow the Geneva Convention, what I was taught in school? It didn't to me. What it added up to me was lots of confusion. The other part that added up to me on it is our interrogators are too low a grade. And so we're asking pretty junior people, Specialist, Sergeants, the most senior person is a Warrant Officer and then a Major in the staffing process whose sort of, his records kind of disappeared, from most of what we looked for. These people are making judgments that are at a national strategic level. That's unfair. You know it should be very simple and direct for a young Sergeant who's going to conduct an interrogation that this is how you do it. And we don't teach you one thing for a hundred and some hours at Fort Huachuca and then you send you into a theater and say well we were just kidding. I mean that's just, I don't know. An expectation. We have terrific young kids. But that's a little bit beyond I think what we would expect of the twenty to twenty-five year olds ability to handle so many different documents. So when--and I'm not even sure how many of them ever saw the final one that got down there. There was so many drafts in-between.

BY (b)(6)-2 & (b)(7)(C)-2 [redacted]

[U] Q. And I guess I have a couple of questions based on that of what you just told us, Sir. You mentioned that there were several drafts that were in the possession of some of these Soldiers, but of course at that time period only two policy letters were actually signed by General Sanchez. The one in September and the one in October. And of course there was one later on in the spring, but specifically on those two. Whose responsibility was it in your view to make sure that those Soldiers were only operating with signed policy letters?

[U] A. In my view the way that--we established it should have been the person in charge of JDIC, Lieutenant Colonel Jordan. Now you could also say then that was the responsibility of the Senior MI Commander there who should have ensured across the entire Military Intelligence Operating that it was the right policy at the right place.

[U] Q. Yes, Sir. My second question is, MI folks will argue that they are in fact not limited by what is taught at Fort Huachuca and the specific techniques that are described in the FM. They like to refer to a paragraph that says something about interrogation techniques are only limited by the imagination of the interrogator with the caveat of course that interrogations have to comply with all applicable laws and regulations.

[U] A. Right.

[U] Q. That differs a little bit from what you said where because we're dealing with such junior folks, they ought to limit themselves to what they were taught at the school. And, --

[U] A. Well, I think what--when it says it's up to the imagination of the interrogator, it says--it also says don't violate the law.

[U] Q. Right, Sir.

[U] A. I mean that's a clear distinction of what they're taught.

[U] Q. Yes, Sir.

[U] A. In telling somebody to take all their clothes off and be naked while you're interrogating them or to put them into isolation with no--and deprive them of all their senses is also--both of those are violation of law.

[U] Q. Yes, Sir.

[U] A. And they knew that. When you asked them after the fact. You say, "Did you really think about that?" "Well, yeah. I guess it was."

[U] Q. What techniques did they think they were using when they were stripping the detainees? Did that even fall into one of the categories?

[U] A. No. That is a--no, something that I think fell out of Special Operations Afghan CIA. It sort of migrates its way into the Soldiers.

[U] Q. Sir, it is our understanding that, that General Sanchez believed, he recognized that he had this mix of experiences from different countries. As well as a mix of training levels within his interrogators and that actually drove his decision to actually publish these policy letters and put out some guidance and set up some limitations. Was that a bad decision on his part in your view?

[U] A. No, I don't think it was a bad decision. It just it was too long in coming. Now that--because interrogations were taking place while all these drafts were being written and staffed. And what nobody ever knows, I mean how many times have you ever gone down and check on the fact that somebody never has the--I mean you do it all the time as an IG. You don't have the most current regulation. You don't have the most current policy. You're following something that is outdated. You know and unless you have a religious way of going back and checking that, you never really know what people are using. Hell, we all go back and pick out the last FM we got when we were in school. And that happened in this case too. One of which had a violation of the Geneva Convention in it.

[U] Q. And which one would that be, Sir?

[U] A. I don't even remember the date right off. I'd have to go back and look at it. It was--it's not the current one. It was one that was published I think in '87.

[U] Q. Which technique did it include that in your view violated the Geneva Conventions?

[U] A. I'd have to go back and look at to tell you the truth.

[U] Q. Okay.

[U] A. But I know they--they purposely changed the FM because when the lawyers went back and looked at it, they said no, that's not right. And I just don't remember.

[U] Q. I know that Mutt and Jeff was one that was dropped from the original.

[U] A. Yeah.

[U] Q. And I don't know if that's the one that you're thinking about.

[U] A. Yeah, and I don't know if that's the only one or not.

[U] Q. I think there were a few.

[U] A. Okay. But I know I've used FMs out of world War II because they are simple and easy to read.

[U] Q. Yes, Sir. Sir, in your view did any of the interrogation techniques that were listed in either letter violate the Geneva Conventions?

[U] A. No, I don't think they did. The interpretation of them violated the Geneva Convention in some of the cases, and the two or three that bother me are --one is the dog misinterpretation completely. Dogs are to be used for security not to scare somebody.

[U] Q. Right.

[U] A. And that was taken completely out of context. And then the other one is the isolation. It is a technique which can be used. It's allowable, but you have to do it under the right conditions and that didn't happen. So it wasn't just the techniques that were there. It was the way they were implemented.

[U] Q. And whose responsibility was it, Sir, to ensure they were implemented within the Geneva Conventions?

[U] A. Again I would have to say at Abu Ghraib it should have been the JDIC leader, Commander, Director, however you want to--Lieutenant Colonel Jordan.

[U] Q. Yes, Sir. Sir, do you know whether any of the detainees that were abused by the MPs--

[U] A. Uh, huh.

[U] Q. The horrible pictures that everyone has seen. Were any of those folks going to be interrogated? Do you know?

[U] A. There were, if I remember correctly, in General Fay's report there are one or two that were to be interrogated.

[U] Q. But the bulk were just regular criminals?

[U] A. Yeah. I'll just say my thesis going in was that there was direction given to stage this in front of the people you wanted to interrogate. To frighten them so that they thought if we don't cooperate this is what's going to happen to us. And that was not true. That thesis was proven false. So, how they chose those people, I believe is just a fact that the night shift essentially grabbed whom they wanted.

[U] Q. Were they bored?

[U] A. Historically, and there's all sorts of papers and studies that have been written about the people who are running detention facilities will take advantage of the people they're detaining. That occurs in prisons-civil prisons. It occurs almost in every case. So psychologically unless people are prepared to discipline that from not happening, you can expect that it will happen. And so that's the first--you kind of set people up when you're in charge and somebody else has no means to bite back.

[U] Secondly, , this is my personal view, this is an amoral group of people of four or five. And you've seen that in some of the trial reports that have come out since then.

[U] Q. Right.

[U] A. And so I believe their behavior was based on a lack of morality and a position of authority which allowed them to take advantage of their low moral standings and character. I will tell you, my wife thinks they were trying to make a pornographic movie. I mean you just look at the things they did. They're absurd.

[U] Q. Yes, Sir.

[U] A. And then the physical beatings that they were stomping on people that were already hurt and injured is just--that's inhumane. I just can't fathom any American Soldier doing that to somebody else. You know? Unless that other person is threatening them with their life and he's got a knife at their throat. And the only way that they can do it is to beat them back.

[U] Q. Yes, Sir.

[U] A. But that clearly was not the case.

[U] Q. It's my understanding, Sir, from my review of reports, that actually there were only a handful of abuses that actually occurred during interrogation.

[U] A. That's correct. That we found.

[U] Q. Yes, Sir, mostly involving nudity or some degree thereof.

[U] A. There is the one case with the dogs.

[U] Q. And that was my question, Sir. So there was evidence that dogs were used during an interrogation?

[U] A. Yes.

[U] Q. Okay, and you----

[U] A. Clear evidence of the interrogators bringing dogs into the cell with the explicit purpose of scaring the----

[U] Q. But that did not occur in an interrogation booth, it occurred in a cell? Do you remember?

[U] A. That's correct.

[U] Q. Okay, Sir. All right.

[U] A. But it was, nevertheless it was a preparation for an interrogation, it was not--

[U] Q. Okay, Sir.

[U] A. It was very clear that that's what they were doing.

[U] Q. And they indicated their understanding was the use of dogs was authorized based on the policy letter?

[U] A. I'm not if it was their understanding or their saying that that was their understanding.

[U] Q. Yes, Sir.

[U] A. The policy letter which said that dogs could be used was for security.

[U] Q. Right.

[U] A. It was not for interrogations.

[U] Q. Yes, Sir. Do you think any of these folks legitimately misunderstood that, or do you think they interpreted it that way on purpose?

[U] A. I can't read their minds. I don't know.

[U] Q. Okay, that's fine, Sir. All right. Sir, I'm going to go ahead and pause the tapes and pull them out because we're getting really close to them reaching a stopping point.

[U] A. Sure.

[U] MS [redacted] The time is 1200 and I am going to stop the tapes and switch them out.

[U] MS [redacted] The tape recorders are back on and the tape-recorded portion of this interview continues.

BY MS [redacted]

[U] Q. All right, Sir, was it your understanding that Colonel Pappas believed that he had the authority to use dogs during an interrogation?

[U] A. No.

[U] Q. Okay. Sir, on the second letter, the interrogation policy stated that it specifically applied to security detainees as opposed to EPWs and Civilian Detainees that were listed in the first letter. Now, folks we have talked to have said that was a deliberate characterization because at that point they no longer had EPWs. Hostilities had ceased. Everyone we had in that prison could be categorized under one category and that was a 'Security Detainee'. In your view did that change result in any confusion? Did it cause any of these folks to believe that they had some folks that were of some other category and therefore this policy letter didn't apply? I'm just trying to pin down in what way did that particular change cause any confusion.

[U] A. Yeah. I think it was more of a legalistic determination in writing a letter that there was no such thing as an EPW in Iraq anymore. That anybody that was picked up was a detainee. We had gotten rid of the Iraqi Army. It didn't exist. So therefore it was very difficult to identify anybody. At the time that they wrote that final policy letter that you had no Prisoner of War. And so it didn't--I think the interpretation in preparing it was it didn't apply. That's the people who preparing the document. The people who were implementing it both the Military Police and Military Intelligence Soldiers, I don't believe that it was impressed on them that the person that they were--I mean that it--there is a distinction. We trained them exclusively on EPWs in our schools and now all of a sudden they have somebody that's shown up that said 'Detainee'. Well if we're going to justify the Geneva Convention who cares what we call them? It's the rules that apply not what you label the person that's sitting there. So I think it's a legal distinction that was made rather than by preparing the document rather than an interpretation of how people were to look at the person that they had there. And it's still a challenge in Afghanistan. They still call them PUCs.

[U] Q. P-U-Cs?

[U] A. Yeah.

[U] Q. Yes, Sir.

[U] A. And so we've got all these labels that are out there that are not doctrinal terms; that are not legal terms. They're a person that you are given to keep in this facility, detention facility, that is now labeled a 'detainee'. I don't think the Soldiers to them it really makes a significant difference. I think legally it does.

[U] Q. Do you think it caused any of them to think that some of these detainees did not fall under the protection of the Geneva Conventions?

[U] A. I think those that had experience in Afghanistan or Guantánamo started questioning that. So we kind of set up a level of misunderstanding about that, but when they go back and read it again, it's clear that yes the Geneva--you know you asked them the question did you understand that the Geneva Convention applied at Abu Ghraib and they said yes.

[U] Q. Yes, Sir, okay.

[U] A. So it caused confusion, but in the end they really did understand that regardless of what label or--in Abu Ghraib the Geneva Convention applied.

[U] Q. All right, Sir. Sir, what role did General Fast have with respect to the interrogation policy letters? It's our understanding that she was actually absent. Was back in Germany getting some medical work done when the first policy letter came out; and quite frankly we're having difficulty identifying anyone on the C-2 staff that was involved in the development and staffing of those interrogation letters and we were wondering----

[U] COL. (b)(6)-2 & (b)(7)(C)-2: Short of the SJA.

[U] MS (b)(6)-2 & (b)(7)(C)-2: Right. Right. But in the C-2----

[U] GENERAL KERN: But not in the C-2, yeah.

[U] MS (b)(6)-2 & (b)(7)(C)-2 In the C-2, but not in the C-2 itself.

[U] COL. (b)(6)-2 & (b)(7)(C)-2 Correct.

[U] GENERAL KERN: Yeah.

[U] MS (b)(6)-2 & (b)(7)(C)-2 We know that there were 205th MI people involved in providing input.

[U] GENERAL KERN: Yeah.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. But we can't pin down the name in the C-2.

[U] A. That's consistent with what we found. A Captain who was down in the JDIC was the primary MI Brigade personnel involved in the staffing of it and at the CJTF it was the SJA Officer that it was primarily staffed, not in the C-2. And our finding was consistent. General Fast was out of the country when the drafts were being prepared and reviewed and then came back after they had in fact had been approved.

[U] Q. Yes, Sir, should she have had a role in the staffing of this interrogation policy either by doctrine or by just little military duty?

[U] A. In my view clearly yes.

[U] Q. Okay, Sir.

[U] A. If not she somebody in the C-2, of at least a Colonel's level should have been involved.

[U] Q. It has been our view that it appears that the SJA actually took the lead on developing the interrogation policy. That they were the ones that, that rightly so, made the determination as to whether or not the techniques that were listed fell under the Geneva Conventions. And that the input that they got primarily from the MI folks was on what types of techniques to use. There doesn't seem to be any evidence that the MI folks were ever really involved in making a determination on Geneva Conventions applicability. Is that your view as well?

[U] A. Right. Yeah, that's consistent with what we saw.

[U] Q. Sir, was it a failure in your view on General Fast's part to not have been more involved in the development of the interrogation policy? Because we don't see where even after she came back and was present at the time of the October policy that she even for that matter read it before it was actually published.

[U] A. In retrospect I think the answer to that is yes, she should have. In reality I believe what happened was that there were a thousand things she was supposed to be doing. Building the JDIC and the process of how it was to operate and doing the fusion of the intelligence was a rather significant and huge task by itself. So when she reappeared and found that the policy had already been approved and she was getting results back from it, intelligence interrogation reports--her mission was to look at those intelligence reports and fuse them into usable intelligence by the Commander; and so you know, I think instinctively, said that's done. I mean why would I go back and redo something that's already giving me what I need to do and I've got six thousand other pieces of it. Dealing with the ISG, dealing with the CPA, dealing with the national and international issues. How do we get intelligence across those boundaries? How do we fuse all this? How do I take the tactical intelligence and fuse it with these interrogation reports? How do we cross-reference all these databases that are being produced? How do I cross-level with interrogations that are going on within Guantánamo? Is there any correlation between what we're hearing there and what we're seeing there? And so you know what she was asked to do as an Intel Staff Officer I think was overwhelming, time consuming, rather than going back to looking at something that had been approved. But I said retrospectively now that you see that there's some--well the confusion that was caused by it. You know, I--

[U] Q. Yes, Sir, now she might argue that even if she had read the interrogation policy memos it was still not her call to make a determination on whether or not the interrogation techniques were okay under the Geneva Conventions, and that in fact all of those techniques, most of them were found in the FMs. Some of them were not. But they were interrogation techniques that were being used elsewhere in the world with some success.

[U] A. Yeah.

[U] Q. So that it was unlikely that she would have had a problem with policy letters; and so in fact her failure or whatever you want to call it to participate in the staffing of those policy letters had no effect on what was ultimately----

[U] A. Well, I would agree with that. I mean whether something is legal or not is not her call. It would be the--you would go to the SJA and say--particularly if you had a SJA who happened to have taught that the law school.

[U] Q. Right.

[U] A. You would assume that he reviewed it and said it was okay. It was okay. And if I were--if I were in any position other than the SJA and somebody said--handed me a document and said is this legal? I would say take to the SJA. You know so I don't think that that statement is inappropriate at all for her to have said that.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, do you have questions about policy letters?

[U] COL. (b)(6)-2 & (b)(7)(C)-2 No, thank you.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Yeah, I would just footnote. I mean the biggest problem I have is the fact that we have so many different policy letters and that the interrogators are a group of Soldiers and contractors who came from lots of different organizations. And most of them are Reservist and they were pulled down out of these units and put into this one organization called a JDIC. When you have organizations like that, the simpler you can make life, the more clear you make things for them, the better. We did just the opposite. Just make it very difficult.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. And, Sir, the policy letters were several pages long and it had annexes to it. Multiple safeguards were listed----

[U] A. Right.

[U] Q. --that were in and of themselves fairly long paragraphs and little tiny print.

[U] A. You know it's sort of interesting what our-- what our policy and doctrine says is there should be one thing in the interrogation booth. The Geneva Convention needs to be posted.

[U] Q. Yes, Sir.

[U] A. Keep it simple.

[U] Q. Yes, Sir.

[U] A. Now how you interrogate somebody is your interpretation of how you're behaving. Now, if you respond to a tough approach take a tough approach. If you respond to the nice guy approach, hey you're their best friend. The Geneva Convention applies.

[U] Q. Yes, Sir. And concerning the number of policy letters, Sir, we've already talked, who should have ensured that only signed policy letters were in fact being implemented. But some have argued that the interrogation policy development was in fact an iterative process. That they published the first letter, sent it to CENTCOM, while simultaneously implementing it, got feedback from CENTCOM, the CENTCOM lawyers, that they believed was valid, and thus took that input and changed the letter which became the 12 October, 2003 letter; and were in fact making an effort to improve the policy letters. And that in itself was not a bad thing.

[U] A. It wasn't. It was just too late. It should have been done before we started the operation. Did we know we were going to conduct interrogations? Hell, yes. You know, why do you wait until you're months into an operation to write the policy letter? That's the problem because then you end up with all these Soldiers arriving, transfers of authority, changes of commanders; all those things that happened; and they don't have a final policy letter to use.

[U] Q. Sir, I'm going to play devil's advocate here. Some have argued the exact opposite. That there shouldn't even have been a need for a policy letter from the get-go.

[U] A. No. I could-- yeah, I could take that same view. You have a Geneva Convention. You have a doctrine. You have a training routine that you put people through. I would agree with that.

[U] Q. Yes, Sir.

[U] A. But my--I guess my point is that if you're going to write a policy letter, you should do it before the operation so that you can train people on how to implement that policy letter not in stride.

[U] Q. But it doesn't appear that General Sanchez recognized he had those different backgrounds and different levels of expertise in his interrogators until, I want to say, the September timeframe.

[U] A. I don't know that I could put a date on it, but he clearly didn't when he came out of the Division Command and thrown into this Corps Command Headquarters, stood up these organizations, and the level of understanding of the capability of each individual I'd doubt that he had any idea for many months.

[U] Q. Right. Yes, Sir, so that wasn't necessarily a failure on his part perhaps?

[U] A. No.

[U] Q. Just--okay.

[U] A. I mean how many MOSs do you have in a CJTF?

[U] Q. Exactly.

[U] A. You got other Services that are showing up now or could have. Not--didn't have a lot of them showing up but you did have Navy people in there. You did have a couple of Air Force JSTARs Analyst.

[U] Q. JSTARs?

[U] A. Joint Surveillance Target Acquisition Aircraft that flies around.

[U] Q. The AWACS?

[U] A. Not AWACS. But it's a--

[U] Q. Oh, okay, it's different?

[U] A. Different, yeah, but they were the Air Force people who got put into that JDIC.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Do you have anything along those lines, Sir, before I--

[U] (b)(6)-2 & (b)(7)(C)-2 Generally as it pertains to interrogation policies. Sir, you've kind of brought up the fact the ISG was there. There were OGAs running around and there were some other numbered Task Forces. I imagine, you recall, that did not work for CJTF-7 but worked for CENTCOM or other authorities.

[U] A. Right.

[U] Q. Sir, did you, find any indication in your investigation that some of these other organizations may have been operating on interrogation policies within Iraq, that was generally designed for outside of Iraq? Like GITMO or Afghanistan that tended to confuse the situation.

[U] A. Yeah. I'd say there is evidence to that effect, I did not find any policies that said that and I did not get into any of theirs, because they wouldn't let us for one. I don't have any of their documents that they were using. So I don't know precisely whether they were using Afghan or Guantánamo policy letters in Iraq. It's clear, you know, from the evidence the way they were behaving that they were using something that was not within accordance of the Geneva Convention.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And what specific evidence did you run across, Sir, that would cause you to come to that conclusion?

[U] A. Two or three pieces of it. The first that they were not registering detainees.

[U] Q. The ISG was not?

(b)(1)

[U] Q. The Saudis did?

[U] A. No, no.

(b)(1) [redacted]

[U] Q. Right. Okay.

[U] A. See we did not know that they were Saudis.

[U] Q. Okay.

(b)(1) [redacted]

[U] And the third case is the one which has been brought to court. You know where the SEALS brought in a member from the CIA detention who finally died in the facility. If they'd done it right the first thing they would have brought him in for medical attention. Register him and then taken him to a cell. That didn't happen.

[U] Q. All right, Sir.

(b)(1) [redacted]

[redacted]

[U] Q. How about [redacted] Sir? Of course it has multiple names, but did you come across any evidence that they were involved with abusing detainees either at the point of capture or during interrogation?

[U] A. I could not tell you.

[U] Q. Okay.

[U] A. I mean there are so many different confusing names between ISG, [redacted] CIA, SEALS, Special OPS Units, et cetera. That it's hard to say when somebody showed up or did something that I can identify precisely what organization they came. And there are no records of it. And so it'd be strictly a verbal report that we would have for you.

[U] [redacted] Okay. Do you have any more questions along that line, Sir?

[U] COL. [redacted] No.

[U] [redacted] Okay.

[U] GENERAL KERN: , I think the frustrating part for all of us is that, and I will just tell you just so that you understand. Senator Reed when I was getting ready to testify said, "Did you talk to Ambassador Bremer?" I said, "No." And he said, "Why not?" I said, "Well I didn't have any reason to. No one said that he told us to do something that was illegal or immoral." And he said, "Well who does the Station Chief work for?" I said, "Bremer." And he said, "Who does Fast work for?" "Well she works for Sanchez and for Bremer." "Now, how do you know that if Fay was told no, we're not going to cooperate with you that that didn't come from Bremer?" I said, "Well, I don't." I asked Barbara Fast that afterwards. "I had never even--I did not take part in…' I said, "You're being accused of cooperating with Ambassador Bremer and holding back information." She was absolutely taken back. You know her statement to me. Not a Sworn Statement. It just was, "I had absolutely no discussion like that with him." But that accusation is out there.

[U] [redacted] Okay.

[U] GENERAL KERN: I find no evidence that there is any truth to that, but we do clearly have that; and there is a lack of evidence of what the CIA did.

Because they would not provide us any documents. And a lot of the documents I think you've seen were destroyed before we could get them. They were actually in the prison. So there's a lot of things that are taken by verbal account not by any document that we could prove to you.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay, Sir. Any more, anything else on that one?

[U] COL. (b)(6)-2 & No.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Let me just give you a footnote on this too. I was last week up at Harvard and met with all the Fellows that we have there. Different Services and I don't know if you've talked to this one. One of them was the SGS for Sanchez.

[U] MS (b)(6)-2 & (b)(7)(C)-2 The SGS? Who was that, Sir?

[U] GENERAL KERN: I'll have to go back and find his name now.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: You're asking one thing I have a huge weakness is I don't remember anybody's name.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay, Sir.

[U] GENERAL KERN: My Aide was with me, so he could probably--we can get you the list of people to figure out who it was.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: I did not know him personally. They asked me two questions. And I briefed them on Abu Ghraib because--so that they'd at least have some background. As Fellows they were representing the--there are two questions to me from the other Services. Why haven't we done anything yet. Why is the only thing that we see is happening is to Privates and Sergeants? So there's a frustration out there about the amount of time its taken to proceed with anybody above the rank of MP Sergeant. And the SGS came up to me and said, and it just probably went on for five minutes, about how much General Sanchez had tried to do to overcome any of these problems that were out there. Polices he had written. Directions he had given. Et cetera. He--he was, without my even asking him and all I gave was a few charts of

here's the facts of what we found. The same thing I presented to the press and to the Senate. He was very, very strong on what he thought General Sanchez had tried to get done. And that was just his background for you.

[U] [redacted] Right. Okay, Sir. We'll check with your Aide afterwards and get his name.

[U] GENERAL KERN: Yeah.

[U] [redacted] All right, Sir, we're going to ask you for your legal opinion now. On several things.

[U] GENERAL KERN: Okay.

BY [redacted]

[U] Q. I just want to real quickly review what Article 92 of the UCMJ says regarding dereliction of duty, and that is dereliction in the performance of one's duties consisted of three elements: First, a person had certain duties. Secondly, that that person knew or reasonably should have known of those duties; and three, was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. So three elements of proof for Article 92 of the UCMJ, Dereliction of Duty. I know you're not a lawyer, Sir, but given those three elements, and given that the report found that General Sanchez and General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations, and given the complex and violent environment in which CJTF-7 was operating in an under resourced manner as the report pointed out, and I think most people know and understand, would you, in your opinion, say that General Sanchez was derelict in the performance of his duties as it pertain to----

[U] A. No, I would not.

[U] Q. And can you elaborate on why?

[U] A. Yeah, I think that you could find some proof that the first two elements may have been supportable but not the third.

[U] Q. Yes, Sir.

[U] A. There was clearly in my view absolutely no willfulness, negligence, or inefficiency on his part to commit dereliction of duty violation.

[U] Q. All right, Sir, the same question for General Wojdakowski.

[U] A. And I would say the same thing.

[U] Q. Yes, Sir. He of course had the more specific direct oversight of those people----

[U] A. He had the more specific oversight so there is more evidence of the first elements of being supportable. But he was so over tasked by the number of things that he had to do, that I saw no evidence of anything either--clearly not willful. You know, I don't know how much more efficiency you could have squeezed out of that turnip.

[U] Q. Right. All right, Sir, and then the same question for Major General Fast?

[U] A. No. I think General Fast, one, in part because of her absence during a critical period of this, and two by her tasking to build an intelligence picture to all those elements that we discussed earlier; never really saw that her mission was oversight of the interrogations. Establish of the JDIC was her mission and she had done that. Establish of what happened with the information that came out of it, but not the conduct of the interrogations. So I think, you would have in my view, she accomplished the first two very admirably of establishing the right processes and of doing the intelligence fusion, and I don't see that conduct was something that she felt nor would--did anyone else believe was in her bailiwick. The conduct of that went back to the Commander. And that's the problem I felt the whole Military Intelligence organization where you--when you don't assign a task to a Commander you end up with staff in-between.

[U] Q. Right. And so even though there was no formal assignment, it does appear that Colonel Pappas at least attempted to wrap his arms around it and accept responsibility, but that responsibility was never formalized by an order as you've gone through.

[U] A. That's right.

[U] Q. Yes, Sir.

[U] A. The order encompassed all of Iraq not specific to Abu Ghraib.

[U] Q. Yes, Sir, and of course it's a little murky with General Fast because of the doctrinal responsibilities that

she had as the C-2. But in your view did not rise to dereliction?

[U] A. In my view it was not dereliction. --

[U] Q. What could she have done that she didn't do?

[U] A. I guess what she could have potentially have done is told the Commander to throw the policy letter he had written and go back to the basic doctrine and we'd all be in much better shape.

[U] Q. And how about with respect to the JDIC, Sir?

[U] A. I think--and--now this depends upon and I cannot give you an assessment other than the fact that we know she spent half her time supporting Bremer and the ISG efforts and all of that. And in terms of the fusion piece. Now she did visit the prison. The only other thing that she could have done is okay, I've traded this organization called the JIDC and I've given it some taskings, to go down and do an AAR of how it was operated. But I would have expected that Jordan would have done it and reported to her on it. So perhaps the part that she failed to do was to require Jordan to come back and provide her that assessment.

[U] Q. And of course she viewed Jordan as working for Colonel Pappas?

[U] A. Right.

[U] Q. Okay.

[U] A. And Jordan swears that he didn't work for anybody.

[U] Q. Yes, Sir. And finally, Sir, even though we have not talked about him a lot, was Major General Tom Miller, the C-3 derelict in his duty in anyway?

[U] A. No.

[U] Q. Now we talked about maybe he should have been more involved in terms of operations and interrogation operations being one of those operations that he should have been responsible for and perhaps should have been--done more in terms of the integration of interrogation into the operations. You had addressed that earlier.

[U] A. And I don't think he's derelict in that. I think it's--and part of the whole problem I would argue is that a CJTF is a Joint Organization.

[U] Q. Yes, Sir.

[U] A. Albeit we're talking about our Army. So where is the J? Where is the doctrine and the training for how this organization is going to--and the only Joint person we had there was the Marine Chief of Staff who was working for Bremer.

[U] Q. Right.

[U] A. And we had an Australian Lawyer and a couple of other people who were parts of the staff. But we really lack a training organizational process. A BCTP-like effort for Combined Joint Task Forces that are created out of whole cloth when you're in the middle of an operation. You know we always write an order. Send people off. Put them through the training. Do the AARs, retraining them where they fail; and keep doing it. None of that happened. So when you go down and you say were these people derelict? They were doing, I believe, the very best they could do given a myriad of missions which over tasked them to begin with. So they were trying to sweat through the priorities of what was important. And that's where the system failed, I believe rather than dereliction of any individual to provide that. I mean were those folks sitting there just kind of twiddling their thumbs and going out to the bar at night drinking? Hell no. They were working seven days a week, eighteen, nineteen, twenty hour days. Jumping between two Headquarters. Between the CPA and the CJTF trying to pull all those pieces together. And I think we need to remember that our report is focused on specific narrow areas. that had lots of complicity of where it broke down. But to put it back at a senior staff level who had these other things to do and label it dereliction I believe was wrong.

[U] Q. Yes, Sir.

[U] A. Were they perfect? No. Did they miss something? Yeah. Were they derelict? No.

[U] Q. All right, Sir.

[U] A. That's my opinion.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay, Sir. Sir, do you have any other questions?

[U] COL. (b)(6)-2 & (b)(7)(C)-2 Sir, I do. And again this is where we're seeking some senior leader perspective. Realizing that

you're, number one, the General, two you've investigated the situation; three you've testified to Members of Congress. Obviously, these reports will become part of the Army Record, and they're going to have a very long life. They will be requested for official purposes and read by any number of people. Potentially even, you know, Members of Congress I would expect. So, there's a lot of concern about holding senior leaders accountable or responsible in these matters. Obviously we have to make a finding based on the facts as far as allegations go.

[U] A. Right.

[U] Q. But outside of that, how do you interpret or describe holding people accountable? How would you describe that process or what that charter is for the kind of folks we've talked about today? Understanding, how the Army is going to be looked at, how these individuals will be looked at of for what they did; what they may have failed to do. Potentially through no fault of their own. What is holding them accountable mean to you?

[U] A. I think it goes back to my original statement that when we accept command, we accept responsibility for all the people that are in that command. And I use the word 'responsibility' as opposed to 'accountability'. You hold everybody inside your command accountable for their actions. In General Sanchez's case, I believe he accepted the responsibility for what happened, and he directed investigations to find the accountable person where it failed.

[U] When it became a question that perhaps he might be involved, he asked to be recused from it and asked for another Appointing Authority. So I believe his integrity in trying to define accountability is very clear. And in doing that and saying that okay maybe I had some responsibility. Maybe I had some accountability as well. We found and I personally believe that he holds himself personally responsible and has said that publicly for what happened. And had he been given that Red Cross report and the staff provided him some of the investigative CID actions at the tactical sites and put all that together; had he had an organization, a Four Organization... A staff that was practiced and functioning together that would come to his attention. But it didn't until after the atrocities, abuses, were reported. So I believe he took responsibility to fix accountability and did the right things. And he personally from an accountability standpoint did the right things both in what he tried to do previous to that and what he was doing after the fact once he found out that something in fact had gone awry.

[U] I believe General Wojdakowski, has more direct responsibility over those Brigades. And in retrospect,

should have taken those two Brigade Commanders in and sat them down and defined more clearly and changed the command relationship if necessary. I also believe he was over tasked in the number of Brigades he was asked to supervise and the kinds of things that he was asked beyond just command relationships to solve problems on. So I don't believe that he was derelict and was and held himself accountable for what did happen. And just didn't see this other piece of it developing; and again he didn't get the Red Cross report until after the fact. Which to me keeps coming back as one of those key points.

[U] If I were to fix the whole problem to begin with, and one I believe doctrinally and organizationally we need to fix the Military Intelligence community so that there is clear accountability and responsibility and a line of authority. That is the case in the Military Police Units. Not in the case of the Military Intelligence Units.

[U] The second thing that I believe for accountability when you're conducting detention operations and you have mixed organizations. Military Police, Military Intelligence, OGAs, you need to clearly define someone in charge of all aspect of it. Now that has been done retrospectively. And it probably ought to be in a multi-Corps type operation. It ought to be a General Officer not a Staff Officer and not a Colonel who has other General Officers who have pieces of the organization. You need to put a senior General Officer in charge. And that will fix the accountability and responsibility chain. So that things that became unclear are no longer a question.

[U] And third I believe that detention operations historically have created problems. We saw it Viet Nam. We saw it here. We see it in our own prisons here in the United States. Penitentiaries and state prisons. And so there ought to be warning flags and independent assessments as long as we have detention operations going on. That we have an independent method for commanders to get report to go outside of that chain of command. Somebody who is an IG, an ombudsman, however you want to describe that function and it will be joint function so it may not fit precisely into Army terms. But the Commander needs that feedback directly or we will see these kinds of events happen again I believe.

[U] And finally I personally believe that the Geneva Convention ought to be held almost sacrosanct in how we conduct operations. Both because it represents the values that "we" expect of our Soldiers but it also represents how we would like our Soldiers be treated or anybody else. It might be contractors. It might be Department of the Army, Department of Defense Civilians, by other countries if they are held as

detainees. And so I think we need to ensure all those pieces occur in order to ensure that we have accountability and responsibility tied together. You can't separate them and that's what happened here, we separated them.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] COL. (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Are you wrapped up with your formal questions for everyone?

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, that does wrap up my formal questions, Sir. Is there anything else you would like to add or anything that we failed to ask you that you would like to bring out concerning what we've discussed?

[U] GENERAL KERN: We've implied it a couple of times, but when you do transitions and you do--and we have more TOAs that are coming up, in operations as I look at it. I think that's one, we ought to ensure that we don't change all of the commanders at the same time.

[U] (b)(6)-2 & (b)(7)(C)-2 Right.

[U] GENERAL KERN: Which is one of the contributing factors to this. And two, we ought to have some checks after transitions occurred to ensure that directives and policies which have been implemented prior to it continue the way we want them to occur after the transition. Now who should do that? I said, and clearly you and I are sensitive to detention operations. There are probably other operations that ought to have some oversight as well, but that's one that ought to make sure that when you go through a transfer of authority and there's transitions of commanders, that we don't lose very focused discipline over how those operations are conducted.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] GENERAL KERN: Too much can go wrong.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. Okay. Is there anyone else you think we should talk to?

[U] GENERAL KERN: But I would suggest that SGS who worked for-- and we'll find his name out there. For General Sanchez, because he, as I said, he provided some rather spontaneous insights to me. And the part that is troubling me right now is I don't know what discussions took place in the preparation of the Phase IV Plan. In terms of how we should expect insurgency and detainees, my indications are that the Brits thought there was--that we were naïve. Now--

[U] (b)(6)-2 & (b)(7)(C)-2 So who would you recommend, Sir? Folks at CENTCOM?

[U] GENERAL KERN: CENTCOM.

[U] (b)(6)-2 & (b)(7)(C)-2 Okay.

[U] GENERAL KERN: Now the problem is we're now going back three years. CENTCOM was a Joint Staff. I mean that's when that plan was written.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] GENERAL KERN: So the people who are there now aren't the same people.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: And I guess you ought to bang the CIA IG to get on with.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] GENERAL KERN: The DoD IG in your case to go back up.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: To get that part done. I talked with the former Military Assistant to Secretary Rumsfeld, now SOUTHCOM Commander, and he thought that unless Rumsfeld energized the CIA we'd probably--this would just drag on.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: So John Craddock who understands them pretty well knows that--you--and they need some urging to get this thing moving.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, I'm sorry, what does he command now?

[U] GENERAL KERN: SOUTHCOM.

[U] (b)(6)-2 & (b)(7)(C)-2 SOUTHCOM. Okay. I'm sorry. Okay.

[U] GENERAL KERN: And I guess the other point I would make is not to go talk to more people but there are a lot of people out there who are waiting for results.

[U] (b)(6)-2&(b)(7)(C)-2 Right.

[U] GENERAL KERN: Much more than you know the MP Sergeants who are being prosecuted right now.

[U] (b)(6)-2&(b)(7)(C)-2 Right. Yes, Sir. All right. Unless you have anything else to add then, Sir, I'll go ahead and go into the formal read-out.

[U] GENERAL KERN: Okay.

[U] (b)(6)-2&(b)(7)(C)-2 All right, Sir. We are required to protect the confidentiality of IG inquires, and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties your testimony may be released outside official channels. Individual members of the public who do not have an official need to know, may request a copy of the record to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] GENERAL KERN: I think the answer is yes. But I guess the question is, I--how about all the people whom we name in this? Do they get to see it before somebody else does? That's always troubled me.

[U] (b)(6)-2&(b)(7)(C)-2 Not necessarily, Sir.

[U] GENERAL KERN: So if Jim Smith asked for a copy of my testimony he gets to read it and Sanchez and Wojdakowski and Fast and Pappas and Jordan don't?

[U] (b)(6)-2&(b)(7)(C)-2 May not, necessarily no.

[U] COL. (b)(6)-2&(b)(7)(C)-2 Your testimony, Sir, is normally redacted before it's sent out. If you put--if you say FOIA no that is the highest restriction and it generally will not be shared. If you say FOIA yes, then it can be shared for unofficial purposes and there will be some redaction to protect the confidentiality.

[U] GENERAL KERN: I have mixed feeling on this one. Do you have any----

[U] COL. [redacted] No, Sir. We--we make no judgment on it. It is absolutely your decision. And I would do whatever just feels right for you, Sir.

[U] GENERAL KERN: I'll say yes.

[U] [redacted] All right, Sir.

[U] GENERAL KERN: Because I think as you suggested earlier we're going to have to study and use this in the future to--

[U] COL. [redacted] One question we didn't ask, Sir, is there anything we discussed today that you think was classified?

[U] GENERAL KERN: I'd go back and look at the discussion around the CIA. General Fay and I have had this discussion a couple of times, and he believes that what we've got is not classified. The CIA has challenged that.

[U] COL. [redacted] All right, Sir.

[U] [redacted] All right, Sir.

[U] GENERAL KERN: Now, I don't know if they've challenged it just because they don't want it discussed or not.

[U] [redacted] Yes, Sir. Okay, do you have any questions, Sir?

[U] GENERAL KERN: No.

[U] [redacted] All right.

[U] GENERAL KERN: I appreciate what you're doing. I know this is a tough one.

[U] [redacted] Yes, Sir. The time is 1245 and this interview is concluded.

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[Testimony of **GENERAL PAUL J. KERN** was recorded by means of magnetic tape, and transcribed and certified by [redacted] Certified Closed Microphone Court Reporter, United States Army Inspector General Agency, Presidential Towers, Crystal City, Virginia.]

D5

Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was taken on 14 October, 2004 at Fort Monroe, Virginia,
Between the hours of 1600 and 1745
By Ms (b)(6)-2 & (b)(7)(C)-2 and Colonel (b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] MS (b)(6)-2 & (b)(7)(C)-2 The time is 1600. This tape-recorded interview is being conducted on 14 September, 2004----

[U] COL. (b)(6)-2 & (b)(7)(C)-2 October.

[U] MS (b)(6)-2 & (b)(7)(C)-2 What did I say? September. 14 October, 2004 at Fort Monroe, Virginia.

[U] Persons present are the witness Lieutenant General Jones and the Inquiry Officers Colonel (b)(6)-2 & (b)(7)(C)-2 and Ms (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] LTG JONES: I do.

[U] MS (b)(6)-2 & (b)(7)(C)-2: You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] The first finding is: There is sufficient evidence to reasonably believe that the personnel on the CJTF-7 staff, principally in the OSJA and CJ2X, had knowledge of potential abuses and misconduct in violation of the Geneva Convention at Abu Ghraib. This knowledge was not presented to the CJTF-7 leadership.

[U] Sir, do you recall who specifically in the Office of the Staff Judge Advocate and in the CJ2X had this knowledge of potential abuses? Do you recall them by name?

[U] A. First of all in the SJA, Colonel Warren and his people, due to the fact that the investigations and the reports- ICRC that they saw, had sufficient evidence to determine that there were— abuses going on.

[U] Q. Uh, huh.

[U] A. In Colonel Warren's statement I think he concludes one of the things that he failed to do was to inform the Commander. The C2X people were people who habitually went to Abu Ghraib. I concluded by association and the numerous trips they did to working with the interrogators, that there were abuses on-going. They should have gained knowledge of them and reported accordingly. I didn't get further down into that, but I concluded that after reading the numerous witness statements and the interface that they had with the prison systems.

[U] Q. Okay, Sir. Did you have any indication that General Fast as the CJ2 was one of the folks that was aware of these potential abuses?

[U] A. No, I didn't. I had indications that when she was aware, then she reported to Sanchez. Again I found that— in her position and what she did, based on the environment she was in, she was so tied up during that period of when she came in the country through January with establishing the intelligence operations and trying to pull the Coalition and the Agencies-interagency-together, that she didn't focus on interior—on the interrogations.

[U] Q. Uh, huh.

[U] A. I know some people find that hard to believe, but she spent more than 50% of her time supporting CPA.

[U] Q. Yes, Sir.

[U] A. And, and she did yeoman work in trying to get— the intelligence and the priority of the intelligence requirements out and make it seamless from tactical to strategic. Establish the communications, with little or no resources.

[U] Q. Right.

[U] A. And, and I think that's somewhat true of most of the staff. I think their focus was not down—I think it was towards the CPA and fighting the counter insurgency.

[U] Q. Yes, Sir.

[U] A. That's basically, what I found.

[U] Q. Sir, you mentioned that when General Fast was apprised of abuses that she reported it immediately. Which circumstances were those?

[U] A. One of the first ones I saw was the 4 November case where the— it was also classified as 'Ghost Detainee' where they— the detainee was brought to Abu Ghraib by OG8 personnel, early morning hours. Subsequently died there at Abu Ghraib. That was reported to her by Pappas by phone. She reported to Sanchez. Sanchez directed her to contact the Chief of Station and to ensure an investigation is being done. , and that's what she did. The CID—and not only the Agency then started an investigation, but also did-- the CID because of their death.

[U] Q. Is there any other instances, Sir, that you're aware of?

[U] A. There was another case I believe it— at Cropper.

[U] Q. Uh, huh.

[U] A. I don't know the specific details reported. And in that case, she also reported it and that was passed up to CENTCOM because the Iraqi Survey Group did not come under the CJFT-7. So that was reported back up to CENTCOM to investigate and was subsequently investigated.

[U] Q. Okay.

[U] A. That's two specific I know of in that timeframe.

[U] Q. Yes, Sir. Okay. Okay, you cleared up the question that I had. And specifically the knowledge of potential abuse and misconduct that they had, you mentioned the ICRC report and the allegations that were in that report of the nudity and the women's underwear and that kind of thing. Was there other misconduct that they were aware of that you believed that they had?

[U] A. If— when you look at the magnitude of incidents in these reports—have you see the list of CID investigations?

[U] Q. Yes, Sir, all of them.

[U] A. If you go back and look at that, and the compilation of all those incidents at Bucca, Cropper, Abu Ghraib, point of the spear, the relative magnitude of those would tell a person that probably we've got more than— more than a disciplined Army should have.

[U] Q. Uh, huh.

[U] A. And that was my basis of saying there were sufficient indications of warning due to the magnitude. The one instance where the—you know there is a Ghost Detainee thing where they finally found the three Saudis in Abu Ghraib. Well that's not normal. And, so it tells you that, it-it begs the question who's paying attention. For that number of abuses and the number of investigations on-going. You know there is also other deaths that happened. And how they were reported. Got to come up through somewhat the JAG channels. And I can't believe that that was accepted as a norm.

[U] Q. Uh, huh.

[U] A. And so to me I—I known there has to be something that led to the Sanchez memos of October and December about the treatment of civilians with dignity and respect. I know there was a lot of focus on the loss of US Soldiers and who was killing them and who—and what the support base was and so forth. And that's kind of troublesome. Now you also have to put that into context. There was a lot of pressure at the time to find Saddam Hussein. So, the two sons were killed in July up in—up north. But then up to about six weeks before Saddam Hussein was captured plus the advent of Ramadan coming in there which expected increased attacks on US Forces and so forth, kind of focused their attention on that and then immediately after the capture of Saddam Hussein, then there was a lot of work done to take the information they found and actually resulted taking down 50% of his support base. So that's where their focus was at the same time all of this was going on at

Abu Ghraib, October-November. So, but having said that, I think that the magnitude and the conditions at Abu Ghraib starting to improve later in the fall. And if that was to be the central location which all prisoners were filtered through, it begs a lot of the questions, are we doing it right.

[U] Q. Yes, Sir.

[U] A. And that's where was very little leadership there and direction. But I think there's people and I think in those two particular offices of the staff— maybe not at the senior staff level, but the people within those staffs had to see the reports. They may not have had the experience or maybe by the fact like in the SJA you had the UK guy, Australian guy, and they have a different perspective than a US person. But that led me to believe after reading all the statements, that— there was probably information there that they knew. Either accepted it as being the norm or they actually knew that something was gonna happen and they'd discipline the commander.

[U] Q. Yes, Sir, was General Sanchez aware of the CID cases and—

[U] A. I don't know. I know he was in certain cases. You know of the deaths to ensure that they were being investigated. And then I—and two, I don't know if in case—he was reviewing—a number of cases outstanding and so forth that based on the number of deaths that were in custody.

[U] Q. Right.

[U] A. Because there were several.

[U] Q. Yeah. Yes, Sir, okay. And, Sir, you indicated in the finding that this knowledge was not presented to the CJTF-7 leadership. What evidence caused you to come to that conclusion?

[U] A. Mostly Colonel Warren's statement. He said he didn't tell the Commander.

[U] Q. Okay, you're in particular referring to Colonel Warren's statement. Okay.

[U] A. That and the fact that I interviewed Fast she didn't know about it.

[U] Q. Okay, Sir.

[U] COL. (b)(6)-2 & (b)(7)(C)-2: Garner, Sir?

[U] A. Garner. Was it?

[U] MS (b)(6)-2 & (b)(7)(C)-2 I think so.

[U] A. So when Garner got—things weren't moving, weren't going right so they sent Bremer up there and— they created the CJTF-7. Garner you know he got in there and he said I don't have the people. I don't have telephones. I don't have contact with anybody. I got nobody to work for me. And—there's nothing here. So Bremer then gets appointed and gets sent there and some of the issues was let's make him successful because we're gonna turn this back over. Bremer came in with a direction to, do certain things. And so, now Sanchez will tell you he didn't work for Bremer. And if there was any conflict of what he was trying to do, of course then he raised it to CENTCOM to Abizaid. And said you need to—this is against what we need to do, and they'd work it out. Similarly with the inter-agency folks that were there. From G8. One team was pulled together to get things going. So there are a lot of things that had to be established because there were no— Directives, MOUs, how its all gonna work together. So they had to—they had to build from scratch. So, they had to set the foundation. Build an organization which none of them had ever been-a CJTF-7- before. They had fought the tactical fight, now they're focus is at the strategic level. And that blurring in an insurgency between tactical and strategic— was very tough. And, and a lot of them could not see the differences. And some of the things that may appeared to be tactical actually were strategic.

[U] And, they were faced with that day in and day out. Several—you know it took the Chief of Staff who would have had an oversight and directed responsibilities we know of in an Army or a Corps or whatever, kind of moved—moved over to support directly and they moved what was the Corps TAC and that element from the C2, C3, over to support the CPA. They split another piece over here with the DCG to fight the war. And then you see—okay, Sanchez and his guys, what does he got? He's also got a preliminary staff here to try to work all these policy and all these other issues. So they're—they're—because of resourcing and the way they were set up and the missions that they were given, they torn in three different direction. And oh by the way, you know, all the Division guys and Separate Brigades went –morphed from twelve to eighteen separate Brigades. All these people are waiting for guidance, direction, and so forth. So it was really a— a challenge. And so, the primary guys across –across the subordinate staff starting to focusing up here and by default the lower level guys and—had to work all these other things. That's why I say the lower level C2x, which was created by the way, there's just a couple of those folks left, came from the V Corps things that had to built up. The residual SJA guys kind of running the show because the leadership is pretty occupied fighting the war, supporting the CPA, trying to figure out—try to get the Coalition guys to come on to establish a customs capability. You know border protection. Border Police. Training the Iraqi Army. Trying to, partner with the Iraqis that were left to work an intelligence system. Trying to figure out how to morph this so that eventually they can appoint a interim— Prime Minister or whatever to Iraq. And so that's what ate them up. And so what limited time they were able to get out and see what was happening they couldn't see it because, it wasn't there at the time. Okay. Jones is coming down to visit not a problem. So he was up there with them. You know you go back to decisions made Abu Ghraib, which sit right on the seam between two units. So who's in charge of physical security? It's not the 3rd ACR on this side or the 82nd on this side. You know, because it's a seam right there and seams in military doctrine means we have no—we don't own that piece of dirt. We have what's outside it, but I only come around 50% of my side and fifty—and that's why— initially and then also in that period they put in it a sector which you know Abu Ghraib has a history. That's where Saddam Hussein tortured and killed all the people. No control outside. No engagement with the community through Civil Affairs or other people. Nobody focused outside the wire because I'm inside the wire. This is my piece of dirt. So it was not set up for success in the selection either. Which we also looked at..

[U] So those are some of the things when— you know when Casey went in, we saw early on and he started fixing when he went in. When Abizaid went in, he said, you know, it's another thing. You gave the CJTF-7— not only JTF responsibilities but also ASCC, Army Service Component Command and ARFOR responsibilities. And it's one person and he's a Three Star. By the way, he is a brand new Three Star. He didn't complete two years in command as a Division Commander. So, it said in my report he went from commanding about a fifteen thousand person Division to a Coalition of a hundred and eighty thousand people. With all the different countries, to pull that together. It overwhelmed him. Overwhelmed the staff.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you've fairly thoroughly laid out the context in the environment they were operating in. Given that, but at the same time giving folks duties based on their position or their rank or whatever, did General Fast's action or inaction regarding these interrogation policy memos in your view rise to the level of negligence or inefficiency?

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir. Sir, going on to the next finding. Lieutenant General Sanchez and Major General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. Sir, can you tell us what specifically you feel that they failed to do to provide proper staff overnight? And if you would like you can take them one at a time.

[U] A. As I said in there, in hindsight what I would have done because when you lose your Chief of Staff and now— you've got the C1 responsible for people and ensuring they've got backfills, MP shortages and other things. The C2 is setting the intelligence requirement collection priorities. You've got the C3 overall in charge of detention operations with some execution responsibilities with the Provost Marshal. You've got the C4, responsible for the support—logistics and so forth. You've got the DCG establishing priorities not only for the detention facilities but for different base camps and getting the LOGCAP in and construction and so forth as working with the C4. And so, there's the separate Brigades under the—when Wojdakowski come up.

[U] You know they could talk to him but then there's no Chief of Staff running around. So then, they have to go to individual staff sections and talk different issues. Not one person to come to. So in hindsight my perspective was—Sanchez should have made one person in charge of detention and interrogation facilities—operations for the Go To Person directly working for him. Because you had Bucca, you had Abu Ghraib , you had Cropper, you had the MEK facility, you had the holding areas of divisions. You've got a number of these things going on. Different oversight levels. Which the staff responsibilities then were separated and no Chief of Staff to help direct that. And you've got Wojdakowski over here prioritizing. And initially Abu Ghraib was a temporary facility. So he gave it very little priority. And quite frankly in the summer everybody was living in pretty shoddy conditions. But seeing it as a temporary he was not going to invest long term in LOGCAP and other things. Then Sanchez visited and he said I'm not gonna have my Soldiers living like that. Let's get some thing in there to fix it.

[U] There were some equipment issues with different MP units coming in, in terms of normally different types of MP units have crew served weapons and so forth and different things. These guys moved about. Some of them had their equipment linking up with them, so they needed more mobility and crew served weapons to set up. So some of those things had to be fixed. And so—but it—it did not fall upon somebody, one person, to oversee those things and get things moving. It fell upon different—from my opinion different elements of the staff to do different things, so it did not become, without the Chief of Staff, a synchronized effort, to fix things. A lot of it was defaulted to subordinate commanders, Karpinski and Pappas, because they were Commanders; and Karpinski had the detention operation. Pappas had the interrogation/intelligence collection mission through out the theater. So, they by default, that become decentralized. Okay? And as they got visibility obviously the hindsight says I probably would have done it different and with the one person of compatible rank based on the magnitude of the effort I think I said, the direct—the Pappas's and the Karpinski's and so forth of the world to get things right. And it—otherwise it just got sporadic attention because of their focus other ways.

[U] So I found that looking back once they made a decision to make a strategic collection point of that magnitude, they should have put one person as the Go to Person in charge.

[U] Q. Uh, huh.

[U] A. We kind of got at that for Abu Ghraib when he appointed Pappas for the—actually appointed him for Force Protection kind of reasons and the MPs still had the inside the wire security of the prisoners. The Intelligence guys still had the interrogation piece but he was looking then at the base camp security.

[U] Q. Uh, huh.

[U] A. Probably the genesis of that issue was putting it on the seam of two units.

[U] Q. How about General Wojdakowski, Sir, and which staff did he fail to provide proper oversight for and what should he have done?

[U] A. See, I think he was partisan to that because without the Chief of Staff the DCG has gotta do some things. Again in hindsight what I would have done, you had two new Brigade Commanders. They both swapped out the end of June, the first part of July. He made some—first of all he never really accepted the command relationship of the 800th, that TACON, TACON relationship. But in fact, it did not matter as much is because those people worked for him. They're separate Brigades although it went from twelve to eighteen. That formed a subset of separate Brigades worked for the DCG. So, what he had was two new commanders who were not experienced in the theater. Of which, he could not have known their level of experience. One came out of the War

College and one came out of the RC ranks. They probably demanded more oversight and direction.

[U] Q. Uh, huh.

[U] A. Than they were given. Now on his behalf he was again trying to get the LOGCAP set up. All the logistics, which fell so far behind the rapid advance to Baghdad, the immature lines of communications and securing those lines of communications and establishing the contracts to get the supplies moved forward. Our equipment having just gone through the war needed a lot of attention, getting the parts in. So he was, you know he—he let those Commanders execute their mission in a decentralized way. Whereas I think in retrospect, he probably should have brought those two and gave them guidance that is more specific because he was in their direct chain of command.

[U] So when I look at those perimeters of responsibility for execution of the mission direct or indirect, the clear and consistent guidance and resourcing to do their mission, I found that in retrospect those two units needed more attention.

[U] Q. Yes, Sir.

[U] A. And you had other MP Brigades and other people—because I don't think that the two commanders as they showed up at the same spot at the same time neither had the experience or leadership to execute the mission.

[U] Q. And should General Wojdakowski have recognized that given the circumstances?

[U] A. I think he should have.

[U] Q. And—

[U] A. I mean if you think about it, he had just fought the war, gone through the prep, the training, now I've got two new Commanders. Didn't go through go the fight with me. I've got a lot of things on my table. But—they were probably—one probably didn't accept any guidance or leadership. The other was probably hungry for it.

[U] Q. Uh, huh.

[U] A. And how he recognized that, I'd have to put myself in his head to try to figure it out, but it appeared to me that those were issues.

[U] Q. Yes, Sir.

[U] A. He had two new Commanders in theater.

[U] Q. And the one that didn't want guidance was General Karpinski and the one that was hungry was Colonel Pappas.

[U] A. Karpinski— from my experience and opinion is one who wanted the position of command but did not want to go accept the responsibilities that go with it.

[U] Q. Uh, huh.

[U] A. And you'll see very many times in her statements and I don't know if you've read those or not.

[U] Q. I have, Sir.

[U] A. You find her sometimes back in Kuwait. She left some of her staff back there. She had to be told to move her staff into Iraq. Different times she had to be told to go check on like the MEK facility up at—you know you had those Iranian freedom fighters and so forth. And that gives you—and then Sanchez had a confrontation with her about stepping up and taking charge. You're in charge. You've got this mission. How can you let the Soldiers be like this? And so there were indications there that she was weak.

[U] Q. Okay.

[U] A. And it was obvious that Phillabaum was weak and she didn't do anything about that. But she—you know she sent him back for two week R&R in October. Brought a Colonel—

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. (b)(6)-2 & (b)(7)(C)-2 in from Cropper who's obviously fat, dumb, and happy up there because he's got a mixture of detainees at the MP Battalion. So it's pretty easy for him. He comes in and just sets up shop for a couple of week and then brings Phillabaum back.

[U] Q. Uh, huh.

[U] A. Probably not the right thing to do.

[U] Q. Sir—oh, go ahead.

[U] A. In Pappas' case, his experience led to the lack of making a decision to making somebody in charge at Abu Ghraib. You know he had other Battalion Commanders and so he could have moved in there and set up a clear chain of command to execute that mission.

[U] Q. Uh, huh.

[U] A. Especially as it grew to the number of people there. Overwhelming the intelligence.

[U] Q. Sir, was General Wojdakowski's failure to recognize this need for perhaps additional oversight, in your view, did that rise to the level of negligence or culpable inefficiency?

[U] A. I think it was a shortcoming on his part. I don't think it was negligence.

[U] Q. Uh, huh.

[U] A. Primarily because of the magnitude that he was faced with. Overall faced with.

[U] Q. Okay.

[U] A. Your span of control if you had 12 Brigades or 18 Brigades that you had just moved up to, plus he was now running another set of the staff to fight the war. So, again it became another issue with him of the responsibility and no time to do it.

[U] Q. Yes, Sir, did you run across any evidence that a request was ever sent up for another Flag Officer to come in and serve as the Chief of Staff?

[U] A. Okay, well another Flag Officer came in. Oh, you mean—for the JMD you had a Two Star Marine Chief of Staff.

[U] Q. Uh, huh.

[U] A. That was—he came in, in August.

[U] A. I think Fay saw that down at Pappas' level and below. The pressure was in my opinion, and as General Kern and I look at it, was not abnormal. But as it morphed down to the lower levels, the interpretation of what the commander's intent was of what is it you need to do in establishing a battle rhythm and the standardized procedures was not there. So it had become as you went from CJTF-7 staff to the 205th Brigade staff down to a multitude of interpreters they were getting a magnitude of I need to know this, this, this and this, and nobody is stepping up for them in saying—and Jordan certainly didn't. Stepping up and say this is what—these are our priorities. You find that in any professional line of command but when you got to Abu Ghraib there was nobody there.

[U] Q. Okay, Sir.

[U] A. And that's where the pressure point manifests itself the most.

[U] Q. Is the emphasis that General Sanchez placed on the intelligence community, did you feel that was appropriate given the circumstances?

[U] A. I did.

[U] Q. Okay.

[U] A. And it—because it goes back to – his mission was to build and support operations. He's in a war. Gone now from managing a division to a coalition of a hundred and eighty thousand. Trying to find out who are these people? What is their support base? Who are their leaders? You know where are they going to come at me next? What's their tactics and so forth and as those changed daily he was getting Soldiers killed. He put a lot of emphasis on intelligence. And rightfully so because in an insurgency intelligence becomes probably more important than operations. And, you know that's why I say Fast stepped up after assessments and said well we have our hands full. We've got have these things here and she requested back to CENTCOM to get communications since they didn't have—to get, fusion capability to appease the intelligence effort. To establish a joint interagency task force to start to pull that together and get the equipment so they could reach back to the—what do you call it? The Intelligence Exploitation Center when they had something said what are you getting back there and send me—who is this guy? What you see is happening from all the sources as they tried to fuse the intelligence. So there were a lot of other things going at the same time.

[U] A. The problem with—and you heard this a while ago. The problem with the procedures with dealing with ICRC which Abazaid also said in his testimony in May, the system is screwed up. We have no system for dealing with the ICRC in this environment as we went into it.

[U] Q. Uh, huh.

[U] A. So there was—I understand what was said as far as—a lawyer escorts the ICRC people. But our doctrine heretofore doesn't deal with a strategic detention facility.

[U] Q. Right.

[U] A. We talk about in the linear doctrine, the holding areas as you know, battalion, brigade, division and evacuation back. And so when we created a centralized detention facility, in Guantánamo and now in—Abu Ghraib we did not—address access by ICRC. We know it happens and so forth. But there is no given staff responsibility to interface with them. If you—up in Baghdad if you talk to the people, the International Red Cross person, the relationship with the CJTF-7 staff was all good and worked with them and so forth. But when you got to the lower people running around the country they work and—down to give that to the brigade level. Sometimes it didn't come up. That was later fixed. At the time as you established a facility, they didn't give specific responsibility to interface at the lower levels. Okay? And it was probably not handled well.

[U] Q. Uh, huh.

[U] A. And some of that is the culture of—even in the international community, we saw it in the Balkans, I appreciate what you're telling me but this is what my rules say and so forth.

[U] Q. Uh, huh.

[U] A. Or whatever and then the access piece is not always clear. So we probably as a Nation need to address that better and I think that's already being worked with the Secretary of Defense establishment, the Assistant Secretary for— what is it? Policy and so forth of which now deals directly with the International Red Cross and going towards setting how we as a Nation would deal with the International Red Cross.

[U] Q. Yes, Sir.

[U] A. But that led us to also say though, that—as you get—if you use that as another indication of warning that should trigger something with somebody on the staff. Gets out and takes a look and advises the Commander. Because where there is some smoke there may be some flames there and we didn't see the Inspector General doing anything. Going out there and checking on that. It was left to the legal review. And the comments back down, they went down and said what do you guys say, ah, it's not true. You know? Well, okay. But some of it probably was.

[U] Q. Do you recall who the IG was then, Sir?

[U] A. No, I don't.

[U] Q. That's fine. Did you have any indication that General Fast or General Wojdakowski were aware of the ICRC reports?

[U] A. Fast first saw it in December of 2003 or got—became knowledgeable of it about the same time Sanchez did.

[U] Q. Okay.

[U] A. I don't know if Wojdakowski did.

[U] Q. Okay. But you——

[U] A. But I think it was passed back down to Karpinski to sign and respond to.

[U] Q. So General Sanchez was made aware of the ICRC reports. Was that before or after the pictures came forth?

[U] A. It was right before.

[U] Q. And what was his reaction?

[U] A. He didn't have a big reaction because you'll remember that Warren had advised him it wasn't true. It was not substantiated. Based on what his guys had told him, this couldn't be true. So based on that advice, and at the same time they had just captured Saddam Hussein so they were spinning in a different direction. So he said okay I got it.

[U] Q. Okay, Sir. Was his failure to take action, did that rise to the level of negligence or culpable inefficiency?

[U] A. I don't think so because so because that was—he had trust and confidence in those guys who advised him and they said it couldn't be true. Or it was not significant in terms of what they— was claimed. And so he moved on to other things.

[U] Q. Yes, Sir. Okay. All right, the report talked at length about the operational environment contributing to the problem, between the V Corps transition to CJTF-7 without being fully resourced; the support to the CPA exceeded the going-in operational plans. And of course the operational plans themselves envisioned a SASO, support and permissive environment. Given that, how does this relate to the actions that were taken by senior leaders in the theater at this time? It kind goes back to this negligence and culpable inefficiency standard that I keep harping on.

[U] A. Yeah.

[U] Q. But in particular how does that relate to the actions of General Sanchez and General Wojdakowski and General Fast?

[U] A. They were still operating off the base plan.

[U] Q. Uh, huh.

[U] A. The base plan obviously was given to them by CENTCOM as a subordinate element. So—I think the—not as much with Sanchez and his team trying to execute the mission given to them—when the CENTCOM Staff and CFLCCC went away, there was no revaluation of the campaign plan. Or the assumptions went into it. I think that's fault more of CENTCOM than it is Sanchez. Now he—what they did, was they used FRAGOs to adjust and so they did take—obviously, this is not a true change made, they rewrote—mission orders using—still using the sequence of fragmentation orders, which was kind of normal because they still had the CJTF-7 staff there. So—and quite frankly they didn't have time or the resources to sit down and rewrite the campaign plan. So they did the best they could with what they had to work with.

[U] Q. Uh, huh.

[U] A. Subsequent to that now that you've got a Four Star in there and separated—the kind of Title 10 ASCC responsibilities from the warfighting responsibilities, because you've got MEFs now executing the war fight in the subordinate units and direct oversight and now you've taken the burden of doing that away from them and giving that to Casey and working with the Coalition in doing that. So that was probably the right thing to do. So that changed. Abizaid recognized quite quickly you know. He stopped—last summer he stopped losing people because now you gotta redeploy all these people. We've got a fight on our hands. So it was recognized and he started taking some action. He said I need a Four Star in there. I need two Headquarters. I need somebody in charge of detention and interrogation operations and so fixes then become pretty clear. He saw some of the same things we saw as we started looking at it. And he implemented them. So that's good. And I think you see the results today and the progress than they were from Abu Ghraib to—the division of responsibilities. And the level of responsibilities again a Four Star with experience.

[U] Ms (b)(6)-2 & (b)(7)(C)-2 Sir, did you want to ask any overarching questions before we—we're sort running out of time.

[U] COL (b)(6)-2 & (b)(7)(C)-2 I have a few , Sir.

BY COL (b)(6)-2 & (b)(7)(C)-2

[U] Q. Could you give us a sense of CFLCCC's involvement down in Kuwait? I mean we have—we have Karpinski's brigade which is TACON to CJTF-7 but owned by the—I believe the 377th TSC in Kuwait at that time under ARCENT General Taguba and General McKiernan. I understand the—the confusion, or not the confusion, but the support difficulties, the TACON relationship established. That's pretty clear in the report. Are there any specific responsibilities that the Commander of the 377th had as General Karpinski's direct boss or CFLCCC that contributed to some of these failures?

[U] A Yeah. I f you read the order, and I don't know if you have or not. The relationship—well when you established CJTF-7 CFLCC disbanded. So CFLCC the Combined Forces Land Component Commander went away. Okay? But CJTF-7 becomes the supported Commander in the Iraqi Theater of Operations. That also was true for ISG which I didn't recognize. There was the Theater Support Command and the relationship as the plan was, the detention facilities were never planned to be the magnitude they were and so they retained that TACON responsibility—because eventually there would be a term employment to hand back over to the Iraqis. And so okay I'm done with that. Envisioned to be no more than about six hundred people-detainees-after the end of hostilities. And that Brigadier General Hill also said that in the May timeframe. Other than the MEK guys up to about three thousand in one compound. And so it was never envisioned to that magnitude. So what they wanted to do was retain—the 800th intact so that when it went theater they wouldn't take their assets and move them here to Kuwait, which they could if they're being intrusive if they're TACON. So they kind of re-held that TACON relationship based on the previous plan. And for a lot of the other forces, the SOF forces the TACON relationship, keep the Commander informed, execute your mission, worked out okay. But with this Commander who reluctantly moved her staff up there, still saw—envisioned that—responsibility for the detention facilities but still working for the 377th, so she used that kind of both ways. In turn she says, CJTF-7 you gotta support me. I need this, this, and this and so forth. But in reality her support base by a TACON relationship is the 377th. Because the logistics support of units that are TACON still rely upon the parent unit. That didn't happen. And then the 377th changed out commanders and so forth. They didn't see any role in supporting the 800th. They—that's a CJ—that's in theater. So that's where the confusion and it really convoluted relationships that came into being.

[U] And I asked Sanchez about that. I said, you know you had so much problems here, why didn't you go back up for change in relationships? He said, well I didn't see it to be a need because I've a General Officer, they've got a mission to do. I expect her to do it. And—I didn't have any other problems with other people who were TACON to me. But in this case Karpinski played both sides against the middle. You know, ran around the country. Whatever she wanted to do. Because I think that's why she kept going back to Kuwait, to keep that relationship going. And then it really manifests itself at the end with who does my efficiency report.

[U] Q. Would it be fair to characterize General Sanchez's perception of this problem with General Karpinski then as a leadership problem with his Commander versus a Command relationship with the TACON versus OPCON?

[U] A. I think so. Accepting ownership of the mission and doing the things she has to do to execute that mission. I don't think she ever accepted ownership.

[U] Q. One of the reports we read basically stated that there were failures on the part of CFLCC—in planning for insurgency. From the information you've given us today they were clearly out of that picture in about the June 2003 timeframe.

[U] A. They diverted back to Doha for the responsibility for Kuwait and Saudi Arabia and/or of the RSO.

[U] Q. So in that instance they had no planning responsibility for anything going on in Iraq post about the June 2003 timeframe?

[U] A. It was something like 14 June I think. You gotta remember the relationships between those two staffs soured a little bit. Because V Corps guys, seemed they were left holding the bag. No resources. No—now—now I'm the CJTF-7 and nobody is giving me the resources. In the meantime some of those guys who were at Doha left. You know? If you look about the CFLCC staff they were pretty well equipped. You had J.D. Thurman there. You had a lot of good horses to help McKiernan be the CFLCC Commander over Wallace and/or the MEF, the Marine guys. And so they were staffed accordingly to do that. When they diverted and went back to Doha a lot of those people left. At the same time the guys in Qatar said our mission is kind of done now. We're into a stability and support operation. We're out of here. All those Air Force guys and other people. So—the appearance was the only people you had left was Abizaid and McKiernan and Sanchez and his staff. Everybody else could come new.

[U] COL.(b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2o you have any other questions?

[U] MS (b)(6)-2 & (b)(7)(C)-2 Just one last quick question, Sir, and it has to do with Major General Geoffrey Miller's visit.

BY MS (b)(6)-2 & (b)(7)(C)-2

[U] Q. In the September timeframe.

[U] A. Yes.

[U] Q. When he came over and the finding in the report was that his visit, his team, did not introduce any harsh techniques into the theater.

[U] A. Uh, huh.

[U] Q. But that some of his team members—inadvertently validated some techniques that may be in violation of the Geneva Convention. Specifically use of nudity, and the presence of dogs. Did you see any failure on Major General Geoff Miller's part to ensure that that inadvertent validation of interrogation techniques, that that not happen? Did he have any role?

[U] A. No. In fact I think it was done only—it wasn't—and I think Fay's report found somebody from the GTMO team was not reporting.

[U] COL. (b)(7)(C) Thank you for that.

[U] LTC JONES: Trying to remember it all but more I tried to forget.

[ ] COL (b)(7)(C) Sir, you described a complex, violent and horrid environment where CJTF-7 Soldiers, units, and leaders prosecuted a counter-insurgency operation and performed above all expectations. As part of that your investigation laid out numerous facts and made findings pertaining to activities regarding alleged detainee abuse. Sir, in your opinion as a senior leader, did the actions of any senior leader we discussed today or others you may know of, in your investigation, constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. Not above the Brigade. With the exception of--I'm--I was looking at the Chain of Command, focus. Now if some of the staff in terms--okay, and I looked at and elaborated what Barb Fast and Sanchez--but this is an intelligence issue. In my opinion, although great officers I think there was--Colonel Warren--probably was negligent in terms of keeping the Commander informed based on what I saw and the counsel he provided. A tough thing to say based on what they were doing, what they were trying to do, but I think he--his Staff gave him bad advice and I think he accepted it, and his level of experience having been in-country, and his knowledge of the Geneva Convention and things could have led him down a different road.

[U [ I think there's bad decisions and bad acceptance of the missions and how they executed the mission by both Pappas and Karpinski. But I feel that the senior leadership that was the chain of command albeit responsible as we see in the Army for things that happen and do not happen, in terms of what they're responsible for in hindsight they could have done some other things, but I think they did tremendous work based on what they were tasked to do.

[U] COL (b)(7)(C) Thank you, Sir.

BY M(b)(7)(C)

[U] Q. All right, Sir, do you have anything else you wish to add?

[U] A. I think the comment we just talked about having visited there and been in Afghanistan, I think we owe a debt and gratitude to a lot of Soldiers who are doing the right thing. Even in Abu Ghraib there were NCOs on the dayshift who were doing the right thing. There were Soldiers within the 320$^{th}$ MP Battalion–they all worked right there in Ward 1a, 2a, and 1b and 2b. There were others there that were doing great work. Trying to do what was right. I think the incidents of misconduct should be taken as that and let justice do its right course for those people that revealed that they have done clearly criminal acts in what they did. I think our Army has learned about this. I think we'll move forward. We've already implemented a lot of changes that will make things better. But I think we as a Nation have got to wrestle with some of the issues out of this. It's not solely Army. It's how we get into theater and a culture such as this and how we learn from it, and, how we grow leaders to adapt to it. And, we have to look at our leaderships in all components in what we prepare them to do as they get into an environment like this. But, you know I think our values are still sacred. I think our focus on leadership and getting competent and confident leaders is still critical. Presence of leaders at critical points and times is still important and I think that marked discipline is doing what's right when nobody is there. And that clearly didn't happen at Abu Ghraib.

[U] I think there was some–decisions in hindsight which could have been done better. But when you put it in perspective-- and the counsel that the leadership is receiving, I think they had to make some tough calls and they made the tough calls and that's the way it is. And we move on. The two things that bothered me the most, we didn't set this unit and these leaders up for success and we're part to blame. Because we dealt them a situation of which their level of experience-- their level of resourcing was inadequate for us as a Nation to put them in harm's way. And not give them appropriate resources that they needed. And that's a travesty. And so the fall out of all that is people are trying to point fingers. What people did or didn't do is we have to look at ourselves because we're part of this also. We as a Army. We as a Nation, a joint community, didn't step up and help them when we should have and that' s terrible.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir.

[U] LTG JONES: And we can't forget the impact that this has had on Soldiers, families, not only the General Officers that are still left out there hanging to dry, but look at all the other folks of different echelons. Those kids I talked about in the 320th-- some of the others in the 519th-- the 800th MP Brigade-- they talked about taking the flag down because we kind of stood in the Brigade because it's got a rich history and people have served in that, so this has impacted a lot of people and the unit-- I think the coin now in Abu Ghraib and those who are serving there have something that said, something about recovering their honor.

[U] MS(b)(7)(C) [redacted]: I'll go ahead and start the read-out then.

[U] LTC JONES: Okay.

[U] MS(b)(7)(C) [redacted] We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] LTG JONES: Testimony yes. Social Security Number and my address no.

[U] MS(b)(7)(C) [redacted]hat is normally redacted, Sir.

[U] LTG JONES: Because that's--we get more credit cards coming in that we want now.

[U] MS(b)(7)(C) [redacted]Right. Okay, Sir. Do you have any questions?

[U] LTG JONES: No, I hope I've answered your--what you needed.

[U] MS (b)(7)(C) [redacted]es, Sir.

[U] LTG JONES: And you know if you need me--to see me again just holler.

[U] MS(b)(7)(C) [redacted]All right, Sir, will do.

[U] LTG JONES: I'll be glad to do it. I've lived this now for three or four months and--, I think we did a reputable job in trying to get--based on the time that we had to try to figure out--, ascertain the--the facts and now we just gotta move on.

[ U ] MS (b)(7)(C) Yes, Sir. All right, Sir, the time is 1745 and the tape-recorded portion of this interview is concluded.

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Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was transcribed and certified by (b)(7)(C)
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

D6

Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was taken on 13 September, 2004 at the Pentagon, Washington, DC between the hours of 1310 and 1415
By M(b)(6)-2 & (b)(7)(C)-2t and Lieutenant Colone(b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] MS(b)(6)-2 & (b)(7)(C)-2: The time is 1310. This inquiry is directed by The Inspector General of the Army.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to FOIA. Since I'll ask you to provided your Social Security Number to help identify you as the persons testifying I've previously provided you with an explanation of the Privacy Act.

[U] Did you understand it, Sir?

[U] MG FAY: Yes, I did,

[U] MS (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Do you have any questions before we begin, Sir?

[U] MG FAY: I do not.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [Major General George R. Fay was sworn and testified under oath as follows:]

BY MS(b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you may lower your hand. For the record, please your name?

[U] A. George R. Fay.

[U] Q. Your rank and component?

[U] A. Major General, united States Army Reserve.

[U] Q. Your current position and organization?

[U] A. I'm the Assistant Deputy Chief of Staff, G2, , Army Staff.

[U] Q. Your Social Security Number, and Sir, this is voluntary.

[U] A. (b)(6)-2 & (b)(7)(C)-2

[U] Q. And an address either home or office keeping in mind that the return address on any correspondence from this office will indicate that it is from the Department of the Army Inspector General.

[U] A. Okay, (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2

[U] Q. All right, Sir, and a phone number?

[U] A. (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir. And a phone number either home or office?

[U] A. Office phone number is Area Code (b)(6)-2 & (b)(7)(C)-2

[U] Q. All right, Sir, thank you. All right, we'll go ahead and get into the questions now. As I indicated to you before, the questions that we have for you today pertain to the findings and conclusions and evidence that were cited in what I will refer to as the Fay Report. It is also called the Kern Report depending on who you ask. So these questions will focus on those particular findings.

[U] A. Since you're asking me I'll call it the Fay Report.

[U] Q. Yes, Sir, it sounds good to me.

[U] A. Okay.

[U] Q. Okay. Sir, one of the findings that you made in the report was that there was a lack of clear command and control of detainee operations at the CJTF-7 level. And by the way, Sir, I have brought the report with me so that if at any report we need to refer to it we can.

Sir, in your view who in CJTF-7 at that time was responsible overall for detainee operations prior to the assignment of Major General Geoff Miller?

[U] A. That was the problem.

[U] Q. Yes, Sir.

[U] A. Is that there was a real confusion as to who was in charge of detainee operation and that was our finding is that there was no clearly one person in charge. It was a shared responsibility amongst a number of staff elements and staff persons and commanders. And because it was so shared because everybody owned it nobody owned it.

[U] Q. Can you cite some of the folks that had a shared responsibility?

[U] A. Yes, well obviously first starting with the overall responsibility being, , Lieutenant General Sanchez as the CJTF-7 Commander, but below him there was the—, Deputy Commander who was—, Major General Wojdakowski, , and he had some responsibilities because he had both the 800th MP Brigade Commander and the Army Military Intelligence Brigade the 203rd?

[U] Q. Fifth.

[U] A. The 205th MI Brigade Commander both reporting to him. , but quite frankly Major General Wojdakowski was mostly involved with the logistics questions and running the huge numbers of logistics issues that concerned CJTF-7 at that time. And although he was somewhat involved with the detainee operations, I wouldn't say that he was focused on that. At least not based on my investigation.

[U] Q. Yes, Sir.

[U] A. And he was—and from that aspect he was even more involved with the MP Detention portions than he was the interrogation

portion. I think when it came to the interrogation area he just relied very heavily on Colonel Pappas as the Commander of the 205th MI Brigade.

[U] Q. Who he rated as well?

[U] A. Who he rated as well. He did not rate General Karpinski who was the Commander of the 800th MP Brigade. Although she thought that he was going to be rating her. But anyway, that—and I cover all that in the report.

[U] Q. Right.

[U] A. It's very—it was very confusing.

[U] Q. Yes, Sir.

[U] A. Additionally you had the Provost Marshal of CJTF-7 who had some responsibilities, but where they began and where they ended no one was quite sure. You had the CJTF-7 C-2 Staff, that would have been Colonel (b)(6)-2& [illegible], in the beginning and then it shifted to Major—well first it was Brigadier General and then Major General Fast, after Colonel (b)(6)-2 & (b)(7)(c)-2 So—and they had some responsibility relative to the interrogation operations and also the release boards, and then you had the Staff Judge Advocate that was providing legal advice and assistance not only to General Sanchez but each of those staff elements that I mentioned.

[U] So they were all involved. And the reality was because there were so many people involved it wasn't clear. It wasn't a focused issue , until General Miller was named and he did bring it under focus.

[U] How about Major General Tom Miller, Sir, the C-3, did he have a role that you saw?

[U] Well actually, when I was doing my investigation that General Fast informed me that at one point in time General Sanchez at a meeting became so frustrated with the whole detention operations issues, interrogations included with that, that he said, "Who here is responsible for this?" referring to his whole staff. And he then—General Sanchez —turned to General Tom Miller and said, "You're the three. You're responsible. " Now, General Fast had first believed at that meeting that occurred in October. General Miller when I interviewed him said, no, no, that did occur but it occurred much latter and in a time period that he thought, as I recall, was some time around February of 2004 when that meeting occurred.

[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

That in fact it did occur but it didn't happen until the January-February timeframe rather than the earlier timeframe.

[U] In your view, Sir, should a single person have been overall in charge at that time? Was that something doctrinally that they should have done?

[U] It as not doctrine and of course that's another one of the issues that we had identified. That the doctrine is silent as to who has responsibilities with regard to detainee operations. My opinion is that we should doctrinally address that issue and it is a shortcoming. And to this day we do not have a doctrinal answer. In other words, when General Miller leaves, you know, when he rotates out of Iraq, what's what the next solution? Show me a doctrine where his position exists. It does not exist in doctrine.

[U] All right, Sir. So in your view, Sir, did the method by which CJFT-7 control detainee operations prior to Geoff Miller's arrival violate any Army standard or doctrine? Perhaps not since there was no doctrine?

[U] There wasn't. There was no violation of Army doctrine in that regard I am aware of.

[U] Then given that there was no doctrine, apparently not any Army standard regarding detainee operations in the CJTF environment, what do you think General Sanchez should have done? Should he have recognized that he had a shortfall there? What are your thoughts on that, Sir?

[U] Yeah, I believe that there should have been an earlier recognition of the problems that existed. That the issues that came up at Abu Ghraib had some predecessors to it. This was not the first time that issues relative to detainee operations had arisen at the CJTF-7 level. It was known that these were issues. There were in my opinion enough issues early on. Earlier on during this process it was identified that it should have been recognized earlier and should have received more focused attention earlier than it did. It's easy now to second-guess and I'm not—I understand all of the pressures and the war fighting issues that he was facing, which is why I think we were very careful not to be—at least we tried not to be— too criticizing in our opinions because you've got to go back to the fact that the CJTF-7 operation was, in my opinion, a pick-up team. We put that together. 'We' the United States put that together in a very short time period and it was never fully staffed and never fully organized and we eventually recognized the shortfalls of doing it that way, which now why we now have a Four Star Command there.

[U] Q . Right.

[U] A. With the Operational Three Star Command under that. This is only one of the reasons why we did this, but to place all the burden on General Sanchez I do not believe it is fair. I believe that it goes higher than General Sanchez. That 'we' as a country under resourced and under appreciated what we were going to be facing when we arrived in Iraq. And we were optimistic, in our opinion of the amount of resistance we were going to face. And when it turned into an insurgency we didn't react fast enough but even if we had reacted with lightning speed it still would have been too late. Which you know we should have been more pessimistic in our initial analysis of what Phase IV of the operation was going to present to us.

[U] Q. So let me ask you the tough question here, Sir, and you've sort of laid it out already but was General Sanchez's or for that matter General Wojdakowski failure to initially recognize that there was a lack of clear command and control in detainee operations at the CJTF-7 level. Was his failure to recognize this in your view in anyway improper or negligent?

[U] A. No.

[U] Q. –obviously in these circumstances?

[U] A. No, I think that it wasn't improper. It wasn't negligent. It was a fact that occurred. But given the view of the entire situation, the fact that this was an under resourced operation that it changed very quickly from a combat operation to an insurgency and they were left with a force that was not put together to fight an insurgency. They were reacting to the situation as they saw it. I don't believe it's negligence.

[U] Q. Okay, Sir, going back to General Miller, Tom Miller.

[U] A. Yes.

[U] Q. As when he raised his hand at some point saying that he was in charge. Do you recall during your look whether General Karpinski received any guidance concerning detention operations from General Miller?

[U] A. I don't ever remember—I interviewed General Karpinski for seven and a half hours. She never to my recollection mentioned General Tom Miller.

[U] Q. Right.

[U] A. Mentioned frequently General Geoff Miller.

[U] Q. Right.

[U] A. And his visits but never mentioned Tom Miller.

[U] Q. Right.

[U] A. So if there was an interaction there, it wasn't very significant.

[U] Q. Okay.

[U] A. Most of her interactions were with General Wojdakowski. And she did tell me about a lot of her interactions and General Wojdakowski told me about a lot of interactions with General Karpinski.

[U] Q. Right. Okay, Sir. And then Colonel (b)(6)-2 & (b)(7)(C)-2 I believe was the PMO at the time. Any indication that she received much guidance from him?

[U] A. No.

[U] Q. Or the same thing?

[U] A. The same thing. No—no indications that she received much guidance from him, and I did not interview that Colonel.

[U] Q. I noted that.

[U] A. But you know the information that I can recall was that he was not a very involved player in detainee operations. He was doing the other traditional Provost Marshal stuff and I believe that Command looked to General Karpinski to be the detainee operations person.

[U] Q. All right, Sir. Another finding that was in your report was leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Sir, do you recall to which leaders specifically failed to take steps to effectively manage that pressure?

[U]A. Yeah, there I'm talking about the 205th and the JIDC management. So we're talking about Colonel Pappas, we're talking about Lieutenant Colonel Jordan; talking about Captain (b)(6)-2 & (b)(7)(C)-2 We're talking about Major (b)(6)-2 & (b)(7)(C)-2 and there's another Major who was also an operations officer—

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. Huh? (b)(6)-2 & (b)(7)(C)-2 No (b)(6)-2 & (b)(7)(C)-2 was on the——

[U] Q. The 800th?

[U] A. No, he was on the staff of Colonel Pappas. But he wasn't involved with—well to some extent involved but he was running the operations for the whole Brigade.

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. (b)(6)-2 & (b)(7)(C)-2 That was the one, yeah.

[U] Q. One of those common names?

[U] A. That's right. That's right. It was Major (b)(6)-2 & (b)(7)(C)-2 that I was referring to. So that's the leadership that we were—that I was referring to when I made those comments.

[U] Q. So you weren't referring to General Sanchez or Fast or Wojdakowski?

[U] A. No, because it wasn't their jobs to protect those Soldiers at that level from that pressure. It was in my opinion the job of that unit and that unit Command structure.

[U] Q. Given that, Sir, in your view, what pressures did General Sanchez, if any, place on the intelligence community----

[U] A. Oh significant and he testified to General Jones that he did that. I mean General Sanchez was rightly frustrated by the situation. I mean, the situation quickly turned into a insurgency and we didn't have an adequate amount of information to find out who the insurgents were or where they operating, how they were operating, all the things that we need out of a unit, Human Intelligence structure, which of course we don't have a very robust unit intelligence structure. The Army took down most of that in the 1990s.

[U] Q. Okay, Sir.

[U] A. So we had limited assets to get him the information he needed but he was expressing those frustrations and putting that degree of pressure on Colonel Pappas and the other members of the 205th and his entire intelligence community. I don't think that was misplaced. I don't think it was wrong to do that. That's what 'we' in the Intel Community should and do expect from our Commanders. It's how that pressure is managed that's the important issue.

[U] Q. And you placed the responsibility for that management at Colonel Pappas' level and then down at that point?

[U] A. Yes.

[U] Q. All right, Sir. Another finding that you made, there was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits, Red Cross visits. ICRC recommendations were ignored by MI/MP/ and CJTF-7 personnel. Sir, can you tell us who specifically were the MI/MP and CJTF-7 personnel that ignored these ICRC recommendations?

[U] A. Well I can tell you every one that saw the ICRC recommendations.

[U] Q. Okay. If you could give us a list of them.

[U] A. And ignored them. So Colonel Pappas—

[U] Q. Okay.

[ ] A. Lieutenant Colonel Jordan. I'm not sure that Captain (b)(7)(C) saw them but she knew but she knew about them. General Karpinski. I don't know the members of General Karpinski's staff but there were people on her staff that saw them.

[U] Q. And her lawyer I believe saw them?

[ ] A. Her lawyer saw them and the Staff Judge Advocate Office at the CJTF-7 saw them. All the way up to Colonel—

[U] Q. Warren?

[U] A. Colonel Warren who was the CJTF-7, , Staff Judge Advocate.

[U] Q. Sir, in your view whose responsibility was it to establish such procedures and responsibility for dealing with ICRC visits?

[U] A. Again there is no clear doctrine as to who should. What staff element would have primacy. My personal opinion is that the Staff Judge Advocate should have primacy on establishing how do we deal with the International Committee of the Red Cross and their visits and how should they be handled. But that's just my opinion. You can't go to doctrine and find a specific responsibility for that.

[U] Q. All right, Sir, did you come across any evidence that General Fast or General Wojdakowski or General Sanchez were aware of the ICRC visits?

[U] A. I know that General Fast definitely was not until after the fact, because I specifically remember my conversations with her on that subject. I also know that General Sanchez did not know because Colonel Warren told me he didn't bring him—he did not bring these issues to his attention. And I'm sorry what was the other name that you asked about?

[U] Q. Wojdakowski, Sir. Major General Wojdakowski.

[U] A. I can't answer that. I don't remember whether General Wojdakowski knew or didn't know so I don't know.

[U] Q. Sir, did you come across anyone on the CJ-2 staff that was made aware of the ICRC? I mean you mentioned Colonel Pappas, you mentioned Colonel Jordan. They were in the 205th.

[U] A. Yeah.

[U] Q. Colonel Jordan of course was murky. Did anyone on the CJ-2 staff, Colonel b)(6)-2 & b)(7)(C)-2 perhaps or—

[U] A. No. I do not remember. That—I know that General Fast didn't know about it. Whether or not b)(6)-2 & b)(7)(C)-2 did because he then became her Deputy when she showed up. I don't know whether he saw them or he didn't see them.

[U] Q. You don't recall that, Sir. Sir, do you recall with whom General Karpinski's response to the ICRC report was staffed? I know that the Major, the Australian Major, on the SJA staff was the primary drafter of the response. Do you recall who he routed that through?

[U] A. Well, I know that Colonel Warren knew about the response.

[U] Q. Right.

[U] A. I'm not sure at what stage he saw the response but at some point, he saw the response. I don't know if he saw the final draft or what, but I know that he at some point in time saw some part of the response. I do not know who else besides the Australian Major, Colonel Warren, and would have been whoever the SJA person was on Karpinski's staff.

[U] Q. Lieutenant Colonel b)(6)-2 & b)(7)(C)-2 maybe was his name?

[U] A. I believe he was mentioned by Colonel—by General Karpinski to me as being a person she had a discussion with.

[U] Q. Yes. All right, Sir. We discussed the folks that ignored the ICRC recommendations. To what do you attribute this? Why did they ignore them?

[U] A. It was so unbelievable, as many people told me that they were laughable and in fact they did received a lot—, you know, humorous comments about them. When it was read by people no one could believe that they were true. The stories that were in there which ultimately did turn out to be true, no one that saw them that had direct knowledge about what was going on in that specific cell block could believe that American Soldiers would have been doing that —especially the woman's underwear issue because it was well known, especially at Abu Ghraib, that the clothing was unobtainable. That they were really jumping through hoops to get any type of clothing for the detainees at Abu Ghraib at that period in time. And so for this statement to say not only were they wearing—forced to wear underwear but they were forced to wear women's underwear. It was like well how could you get women's underwear. We can't even get regular clothes let alone women's underwear. But as it turned out, it was true but nobody believed it. Because it just was an unbelievable story.

[U] Q. And as a result, the allegations were not investigated by anyone?

[U] A. Correct.

[U] Q. And, Sir, was this failure to investigate— who would you place blame on? Who do you think should have investigated?

[U] A. I believe that we should—we, all of us that are involved with the International Committee of the Red Cross should give them more credence than we have traditionally given them. They are an independent fact-finding neutral party. So when they are presenting to us allegations, even if we believe those allegations to be false, I believe that we have a duty to look into them. It would be the same thing as what we do with the IG. I mean I know the IG looks into all allegations no matter how outrageous they would seem at first.

[U] Q. Right.

[U] A. We should have that same attitude towards the International Committee of the Red Cross.

[U] Q. And to the best of your knowledge the Army , does not have a standard that would indicate such?

[U] A. Correct, in fact, I would say the prevailing attitude is of the Red Cross. It's, those guys are always looking at the opposition side in protecting the human rights. And things that we are leery or—well, not leery but that we believe are questionable when they present them to us. Because they look upon as advocates for

the adversaries more than independent neutral parties.

[U] Q. Right. So, Sir, were any of the people involved in either seeing the ICRC report or involved in drafting its response, were any of these folks in your view in any way negligent for either failing to report it to higher or for not looking into the allegations further, even though technically we don't have an Army standard that says you have to?

[U] A. My definition of negligent is where a reasonably prudent person would do in like or similar circumstances. I do not believe that they violated that standard because when you looked at them without any independent knowledge of the truth as it came out, it would be reasonable to say how could that ever happen.

[U] Q. But in retrospect you would now say they should be investigated regardless of how outrageous because in fact they were credible.

[U] A. Because in fact they were credible. Right.

[U] Q. Yes, Sir. Okay.

[U] A. Yeah. But I can't criticize them for not believing it.

[U] Q. Right. All right, Sir. On to the next finding, Sir. Interrogation technique memo did not adequately set forth the limits on interrogation techniques. Misinterpretation of CTJF-7 policy memo led to some of the abuses at Abu Ghraib but did not contribute to the violent or sexual abuses. And of course, I am referring to the 14 September 2003 memo and the 12 October 2003 memo that General Sanchez signed.

[U] A. Yes.

[U] Q. , Sir, in your view did the CJTF-7 interrogation policies contribute to any of these abuses, and if so, was it direct or indirect?

[U] A. Well let's be—if I can, I want to be-make sure we're clear on which abuses we're referring to here.

[U] Q. Yes, Sir, let's start with that.

[U] A. Okay, there's no way that any documents that were produced by anybody contributed to the sexual or physical abuses that occurred at Abu Ghraib.

[U] Q. Okay.

[U] A. Those were clearly violations of laws and regulations that those that participated in them knew that what they were doing were wrong and knew what they were doing violated Army laws and regulations. That's based on my investigation and that's what I believe.

[U] Q. Yes, Sir.

[U] A. That's one category. The other category or the other abuses, the non-sexual and non-violent abuses that occurred—-

[U] Q. Can you give some example, Sir?

[U] A. Yes, such things as the use of nudity. The interrogators were using nudity as a technique in order to humiliate the detainees in order to encourage them to speak. They believed that they—the interrogators believed—they had authority to perform that specific technique and make those detainees naked as part of the interrogation process. They didn't have that authority. They were wrong when they believed they had that authority.

[U] Q. And, Sir, why did they believe they had that authority?

[U] A. You'll have to go back through that whole long string of DoD, Army and Special Operations Directives that existed dating way back to the point where the War of Terrorism began. So you need to go back originally to the first time you see nudity as an issue is the—, the Secretary of Defense Memo that was issued in December of 2002, which listed all sorts of techniques that could be used at Guantánamo, and one of those was removal of clothing. Now that was taken away six weeks later but not everybody got the memo that it was taken away. So, the mindset had been created in the interrogation world that that was an acceptable technique. And in fact we interviewed people who served at Guantánamo that told us that well removal of clothing is a technique that we have the authority to use in Guantánamo we just don't use it.

[U] Now, they were wrong. They didn't have that authority at the point in time that is in question here. But they thought that they did have that authority.

[U] Q. Because that technique was not listed as an approved technique in either of the Sanchez memos. So, I was just curious how they came to that when it wasn't. Either they had not read the policy or it wasn't explained to them or they didn't think there needed to be a policy regarding it perhaps?

[U] A. The removal of clothing began before the Sanchez policies were even issued.

[U] Q. Okay.

[U] A. And removal of clothing was also a technique that I know was used in Afghanistan.

[U] Q. Right.

[U] A. And it was used by Special Operations I believe and I know that it was used by Army, Military Intelligence/ Military Police personnel in Afghanistan. And some of the Soldiers who were at Abu Ghraib were also in Afghanistan. So, they brought that technique with them to Afghanistan. I mean—I'm sorry to Iraq.

[U] Q. To Iraq.

[U] A. Now , the other issue is isolation. No one understood—, I don't want to say no one, the word 'isolation' was not clearly understood by all of those that were using it. So, the fact that we could use isolation, those that were granting that authority from the General Sanchez level on down had in their mind what isolation meant. It meant something totally different to the Soldiers that were actually employing it. So, whereas I believe that what was in the minds of those that were issuing the authority on isolation they were believing that you were just keeping people separate from the rest of the population. Well that's really segregation. That's not isolation. But what was actually being done at Abu Ghraib was they were placing people in their cells naked and they were—those cells they were placing them in, in many instances were unlit. No light whatsoever. And they were like a refrigerator in the wintertime and an oven in the summertime because they had no outside form of ventilation. And you actually had to go outside the building to get to this place they called the 'hole', and were literally placing people into it. So, what they thought was just isolation was actually abuse because it's—actually in some instances, it was torturous. Because they were putting a naked person into an over or a naked person into a refrigerator. That qualifies in my opinion as torture. Not just abuse.

[U] Q. Yes, Sir. Okay, Sir. Sir, who prepared and had staff responsibility for the CJTF-7 policies?

[U] A. The interrogation policies?

[U] Q. Yes, Sir.

[U] A. The overall responsibilities rested with Colonel Warren and his staff. They took the primacy for putting that together.

[U] Q. All right, Sir, apparently General Fast was out of the country at the time the 14 September 03 memo was staffed. She indicated that in her testimony she was back in the States having some medical treatment done. In your view, did she as the CJ-2 have any doctrinal responsibility for the policy development?

[U] A. Nothing that I'm aware of in doctrine that says that the C-2 has responsibility over interrogation techniques. The doctrine needs to be overhauled. I mean what the Army teaches is you do what's in the FM, and I believe that should be policy. The policy needs to be we do nothing more than what we train. So, if we don't train it in Huachuca, we don't do it anywhere.

[U] Q. Yes.

[U] A. So, for anyone to have authority to go beyond the Field Manual, which means go beyond the training, I think that is a level of authority that no commander should have.

[U] Q. Yes, Sir, okay. Do you have any evidence of whether General Fast reviewed the policy memo upon her return?

[U] A. I don't. I do not know the answer to that question, no.

[U] Q. Do you know whether or not the policy memos were staffed with the CJ-2? And just to back up I'm aware that the lawyer for the 205th MI was involved in the drafting of the policy, as were other lawyers on Colonel Warren's staff. But I am trying to identify who, if anyone, in the C-2 was involved in the preparation of that policy. (b)(6)-2 & (b)(7)(C)-2 or Colonel (b)(6)-2 & (b)(7)(C)-2 or any of the people—

[U] A. No, I'd be very—I do not believe Colonel (b)(6)-2 & (b)(7)(C)-2 or Colonel (b)(6)-2 & (b)(7)(C)-2 saw it. It perhaps might have been seen or passed through Captain (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 who was the staff officer in CJTF-7 C-2 area. Who was overseeing the interrogation operations, but he was a Captain. He's a Major now. My suspicion and I do know that the document went through that office. My suspicion is that's what happened. It went through that office. That Captain now Major (b)(6)-2 & (b)(7)(C)-2 probably said the legal issue well beyond my expertise. I don't know a whole heck of a lot about interrogation practices, procedures, which he didn't. And I suspect he did not give that much more than just okay. Probably ready it and

[U] Q. Was he the C-2 X, Sir?

[U] A. He was—I do not believe—he might have been in the C-2 X shop but I really don't—

[U] Q. You can't remember——

[U] A. I really don't remember. I did interview Captain (b)(6)-2& [illegible] (b)(7)(C)-2

[U] Q. You do recall the name?

[U] A. Yes.

[U] Q. But don't have any evidence that General Fast reviewed the policy or weighed in on the policy? I'm just trying to pin down what her involvement was with those.

[U] A. I do not know if she ever actually read the policy when she came back off of sick leave or not.

[U] Q. All right, Sir, how about General Wojdakowski?

[U] A. I'd doubt that he ever did but I don't. I didn't ask him.

[U] Q. All right, Sir. Do you recall, Sir, who in the CJ-3 the policy memos were staffed with?

[U] A. No.

[U] Q. Okay. And do you know why CENTCOM disapproved the 14 September 03 memo or disapproved parts of it? Because you may recall they rescinded that memo and came out with the 12 October. Do you recall what CENTCOM'S issues were?

[U] A. I don't remember specifically. They—my recollection was that they believed it was too broad and gave too much latitude, included too many techniques that CENTCOM was not comfortable with. So, they wanted it to be more restrictive, but specifically in which areas they felt uncomfortable or what they thought I don't remember that.

[U] Q. All right, Sir. And was it your understanding that the 14 September memo was disseminated with the intent that it be put into effect at the same time it was sent back to CENTCOM to reflect their approval?

[U]A. My recollection was they—it was unclear. All right? That in fact it went out with the CJTF-7 expectation that it was going out but that people that were to receive it - basically Abu Ghraib - would know that it hadn't yet received CENTCOM approval, but the reality was there was no guidance whatsoever at Abu Ghraib at point in time.

[U] Q. Right.

[U] A. So, they seized on whatever they had. So they started using what they had and that should have been the reasonable expectation of the CG and the CJTF-7 staff.

[U] Q. Do you think that was a mistake, Sir?

[U] A. Yes. I believe the whole issue relative to the handling of the guidance and interrogation techniques and how it was formulated. The whole thing needs to be overhauled. The whole thing was confusing to the Soldier, confusing to everyone along the line. People had memos that were draft memos. At Abu Ghraib they did not have the two that you're referring to, they had the earlier draft copies.

[U] Q. The 10th of September?

[U] A. Right. So some of them were operating from the draft copies. Somewhat they thought were the approved copies, then it gets changed in October and when did everybody get that is a question mark, that you know, originally they had the [redacted] memo that basically—they were using, you know, and submitted as their Abu Ghraib recommendation as to what should be adopted. So this whole thing about this policy left a lot to be desired.

[U] Q. Sir, who on the CJF-7 staff do you believe had responsibility to make sure the policy was staffed and disseminated properly?

[U] A. Well, I believe that the burden of the interrogation policies should be the C-2 staff's responsibility. I believe that the Staff Judge Advocate needs to be heavily involved with that to make sure that it complies with all laws and regulations. But I believe the interrogation polices should be the responsibility of the C-2 staff.

[U] Q. And apparently, it was not based on what we've talked about?

[U] A. Correct from my investigation I agree with that statement. It wasn't looked upon as being a C-2 issue.

[U] Q. All right, Sir. Do you think General Fast should have reviewed the policy and take a more active more in its staffing and dissemination and development?

[U] A. Given the benefit of hindsight, yes.

[U] Q. Right.

[U] A. But at that point in time, was not an issue that was even on her radar screen. She had just come into country, in the month before. It was in August I believe she came into the country. She had been doing that assessment for the Secretary of Defense on the whole lay down of the intelligence picture there in Iraq. Doing all the requirements of setting up the new fusion center, which didn't exist before she got there. She was grappling with very, very—and I remember because I was at the Intelligence and Security Command at that time. She was grappling with huge numbers of issues. Very complex issues. Trying to put together an infrastructure that did not exist. This was just one issue that was not even raised to her attention as an issue at that point in time.

[U] Q. Right. All right, Sir. Sir, you said that the policies were very confusing. In what way should they have been clarified in your view?

[U] A. Well, first of all, I don't believe that we should have policies that are different from what we teach and what are in the FMs.

[U] Q. Okay.

[U] A. So there should be a total consistency between what is taught at Huachuca and at the other Intelligence Schools, and what we do in the field. In any combatant command. And the only authorities that should exist within the combatant command for interrogation procedures are whatever is taught in the schools. And so there shouldn't even be a need for a policy. The policy should say, comply with all laws, regulations, Geneva Convention, and use the techniques you learned in the schools. As part of that that I found and that should be as simple as that.

[U] Q. And the total —

[U] A. Total consistency.

[U] Q. –policy letters contained techniques that were not in the FM. Do you believe that that contributed to the confusion or even indirectly to some of the non-violent abuses?

[U] A. Yes, and some of the violent abuses, because you would—although there wasn't the hitting, the kicking, and the physical abuses, some of the things that existed like the things we talked about with the stripping. I think I would personally consider that violent in that it violates the person.

[U] Q. Okay, Sir. So then, just to restate, the policy should have stuck with doctrine and should not have gone beyond that because it's not taught at Fort Huachuca. So there's—

[U] A. Yes. We should you know put ourselves in the shoes of the Spec Four or the Sergeant E5 that was asked to do these things. What is sleep deprivation? How do you actually do that? What is dietary control? How do you actually do that? We're passing all those judgments to the lowest ranking individuals in the chain and putting huge burdens on them as to when do they go too far?

[U] Q. Right.

[U] A. And when don't they? Isolate this detainee. Well what does that mean? They were doing it as they thought they should be doing it. The fact that it was a violation of the Geneva Convention and abusive really didn't occur to them.

[U] Q. Sir, should, in your view, General Sanchez have recognized this at the time he signed the policies and put them into effect?

[U] A. I don't believe that you know when we have a Three Star General who is fighting insurgency and he's got it with an inadequate level of staff that we could really expect him to think through that level. I think that's not a failure on General Sanchez—that's not a failure of command. That's a failure of 'the system' to think through and be prepared for these types of realities. Army doctrine is not the responsibility of the Commander on the ground.

[U] Q. Right. Okay, Sir. So, in your view was General Sanchez either negligent or culpably inefficient in the way the CJTF-7 policies were developed? In other words, did he get sufficient legal reviews; was it properly staffed?

[U] A. He got legal reviews. I don't think the legal reviews were sufficient, but he got legal reviews. He was relying on his Staff Judge Advocate. And not only did he get legal reviews, remember this was approved by CENTCOM. So, CENTCOM got legal reviews and it still didn't work.

[U] Q. Right.

[U] A. So you know it's not—it's not just Sanchez here. I mean where is CENTCOM in all of this? Why aren't they clearing up these confusions? They have another whole group of lawyers, and other staff officers. Of course I did the report for CENTCOM but if we want to use that logic, that reasoning to hold General Sanchez accountable then General Abizaid is just as accountable as is others. DoD would therefore be as accountable.

[U] Q. All right, Sir.

[U] A. Under that logic.

[U] Q. Right. So would you say anyone on the CJTF-7 staff was negligent or inefficient in this regard concerning the way the policies were developed and ultimately approved?

[U] A. I believe that the Staff Judge Advocate Office should have been more careful in their development of this. I can't be totally—critical of them because they were under the same strain that everybody was. They were understaffed; under resourced; they were using young—all they had was young inexperienced attorneys and in this particular instance some of this work was done by not even an American attorney but an Australian attorney. Now, I'm not casting dispersions on Australia, but it's a different country.

[U] Q. Right.

[U] A. They don't comply with our regulations, Army regulations or laws. So I believe it's an issue that goes broader than just the SJA Staff. But I have quite a bit of experience dealing with legal issues and lawyers and my expectation is that the SJA staff probably could have done a more thorough job even given the circumstances, than what was done in this instance.

[U] Q. So, in your view was there anything that General Sanchez could have done differently, given the circumstances concerning the policy?

[U] A. Well, I believe that given the previous instances that had become the issues that he probably at an early stage should have been more alert. Focusing on those issues.

[U] Q. All right, Sir, and those issues that were cited in the report includes the instances at Camp Cropper, the ICRC visits, some of the CID cases that had already come to light?

[U] A. Yes. The Bucca, the Camp Bucca----

[U] Q. Camp Bucca, right.

[U] A. –issues. Yes, and I think all of those taken together should have focused in sooner than he did.

[U] Q. Was his failure to recognize this in your view, negligent on his part?

[U] A. No, I don't consider it negligent. I consider it an issue that he perhaps could have recognized sooner. It's very difficult for me to say. That didn't comply with the standard of care that any other Three Star would have given this under the same facts and circumstances that he found himself.

[U] Q. Yes, Sir. Okay. And finally, Sir, for my last question on the policies, were the policies themselves in anyway improper, in that the techniques violated an Army standard or law? And we've already talked about how some of the techniques were outside of doctrine.

[U] A. No, the policies themselves, were not outside of law or regulation as you specifically read them.

[U] Q. Okay, did any of the techniques violate the Geneva Convention in your view to include those techniques that required General Sanchez's approval?

[U] A. Yes, I believe that the—and this is one of the ones that weren't thought through. Remembering in all of the documents that were produced they all said that these have to be complied, it doesn't relieve you of compliance with the Geneva Convention.

[U] Q. Right.

[U] A. But that transferred the decisions as to when it did and when it didn't down to the Soldier. When I thought you know in some instances that the Staff Judge Advocate could have thought those issues more thoroughly. As an example, use of dogs. They should have been specifically and absolutely prohibited. The fact that there was a question about whether or not they could or couldn't be used should have been taken out of those documents entirely. They should have – specifically- dogs are authorized in the interrogation booth. Because if you use dogs in the interrogation booth, what good would they have done unless they were used in order to physically intimidate somebody? And a physical intimidation is a violation of the Geneva Convention. And if you're not going to physically intimidate somebody with a dog why use them in the first place? So there even the thought of using them doesn't make any sense to me. So they should have been totally excluded and that's just one example to answer your question.

[U] Q. Okay, Sir. The next finding, Sir, the JIDC was created in a very short time with parts and pieces of various units. It lacked unit integrity and this lack was a fatal flaw. Sir, do you recall who in CJTF-7 was responsible for developing the JIDC? Who was kind of the lead agent on that?

[U] A. Well who actually came up with the original idea----

[U] Q. Idea—

[U] A. –by JIDC, JIDC is actually in doctrine. So, you can actually go to doctrine and find that in a operation such as CJTF-7. That there is a Joint

Interrogation Debriefing Center is mentioned. It should be used for the interrogation . debriefing of prisoners and detainees. The problem is that's about all it says. So it doesn't specify as to how should that be manned. How should the manning be determined? Where does the manning come from? So, you create this thing in doctrine known as the JIDC. Yet, you don't staff it. So whose—where do the bodies come from? Where do the Soldiers, Sailors, Marines, and Airmen; where do they come from? Where do the civilians come from? You know out of whole cloth. So there is no doctrine beyond the fact that it just states that the JIDC should exist. And that I believe is, is the initial four.

[U] Q. Okay. And do you recall which officer actually suggested setting it up? Was that part of General Miller's visit when he came over or was it General Fast idea or—

[U] A. I believe it was— yeah, I think it was a general consensus that 'we' needed to set this up so that—, Colonel Pappas was involved with that discussion. Colonel (b)(6)-2 & (b)(7)(C)-2 Not General Fast because General Fast wasn't there yet.

[U] Q. Okay.

[U] A. General Sanchez was involved with discussion. They were influenced by the General Miller visit as to what to do. They were actually thinking in this concept before General Miller showed up. But then when General Miller showed up it sort of cemented the case that they needed to stand one of these things up in order to have a place to interrogate all those prisoners because they were overwhelmed by the numbers of detainees versus the numbers of people they had to interrogate those detainees. We just didn't have enough interrogators anywhere.

[U] Q. Yes, Sir.

[U] A. So they figured well let's put them all together in one central place.

[U] Q. And you indicated that the lack of unit integrity was the fatal flaw. What made you characterize this as a fatal flaw?

[U] A. Because we build units for reasons. For very good reasons. Be the Military Intelligence units, whatever kind of unit, builds teamwork and it builds the reliance on the strengths and weaknesses of individuals to build a better team. Non-commissioned Officers have a critical role in any unit and Non-commissioned Officers are relied upon because they know the strengths and weaknesses of their Soldiers. They also are relied upon for the oversight of those Soldiers, so they watch those Soldiers and lead those Soldiers through the day-to-day activities. Officers are generally not involved with the day-to-day activities of the Soldiers. When you are just putting people together, individuals together, from all over the Army as we did with the JIDC, you lose that familiarity that the unit has. You lose the ability for the NCOs to make the determinations as to who has the ability to do which jobs. Who needs to be watched? Who doesn't need to be watched? How much influence does one Soldier have over another? Who's trained well; who isn't trained well? Who really knows their job; who doesn't know their job? NCOs do all of that. That couldn't happen at Abu Ghraib because nobody knew anybody. People were just sent there to do 'a job', it wasn't a unit. They created their own organization as best they could given the circumstances, but they never trained together. It's common and we hear it all the time in the Army you train as you fight. Well these people never trained together. They didn't know each other.

[ ] Q. Right.

[U] A. So how do we expect them to fight together?

[U] Q. Given the shortage of personnel and other resources that you cited in your report, Sir, what else could CJTF-7 have done?

[U] A. They should have asked for a unit. Send me a unit. Send a Military Intelligence trained unit. Don't send me parts and pieces. I want a battalion and I want a company whatever the right number is. Two companies. Whatever the requirements. The right requirements are, but send me a unit and let me give the unit the mission to do this.

[U] Q. And whose responsibility, Sir, would it have been to ask for that unit?

[U] A. I believe that the person that should have brought to General Sanchez's attention would have been Colonel Pappas. He's the one that should have identified that as a requirement, and—-

[U] Q. Do you have any idea why he didn't or did he and it was just not acted upon?

[U] A. I believe that his solution was that he was going to get enough assets from the Army to perform his mission, so he put out a request for forces, to the Army which the Army responded to by sending him Soldiers from MI units all over the world to fill his void. I don't think that was the right way to do it. I think a more effective method would have been for Colonel Pappas to turn to one of his battalions. Remember he had nine battalions assigned to him.

[U] Q. Yes, Sir.

[U] A. To turn to one of his battalions and said this is now your job. Figure this out. You're the one that has responsibility for this. The battalion already

has its staff elements, its NCOs that know each other. And leave it to that battalion to build the structure that they needed. But you could have had that battalion staff available for the leadership that would have been required.

[U] Q. So, you would place this responsibility for ensuring unit integrity of the JIDC on Colonel Pappas?

[U] A. In this instance.

[U] Q. Yes, Sir.

[U] A. Now broader than that we as a Nation if we need JIDCs then we should state so and staff them. And say where specifically we're supposed to get the bodies for these. We create all these joint organizations and then pay for them out of hide because nobody wants to increase end strength. Well then, we shouldn't create these additional things.

[U] Q. All right, Sir. Okay, Sir, moving on to the next finding, Major General Geoffrey Miller, it says, did not introduce harsh techniques into Abu Ghraib interrogation operations. In the follow-on, JTF GTMO Training Team had a positive impact on the operational management of the JIDC. However, the report also found a disconnect between the strategic orientation of the JTF GTMO Team and Abu Ghraib orientation on tactical operations. Can you comment, Sir, on the difference between the strategic and tactical orientations?

[U] A. Yeah, at GTMO their focus was on the detainees that had been captured in Afghanistan. Their perspective was to develop strategic long term information from those detainees. Their tactical information had long since perished.

[U] Q. Right.

[U] A. It had been a long time since they had any tactical operational intelligence of any value. Generally, operational intelligence value perishes within 72-hours or so. The further you get away from 72-hours, the less valuable information you're going to get from a detainee. That's of operational use. You know we talk about 'actionable intelligence'?

[U] Q. Right.

[U] A. Well, actionable intelligence is perishable. So where is the Army's cache? You know where is the leadership of the insurgency? Where were they living? What's their address? That stuff perishes very quickly. Especially in an insurgency. So, you need to get that stuff very quickly and that should have been the focus and was the focus at Abu Ghraib. Whereas in GTMO it was well, what was the methodologies used to recruit you? Where did they recruit you? Where did they train you? Much more long-term strategic information.

[U] Q. So, they came in with a different focus then?

[U] A. And their experience was different because they were use to focusing on that long-term stuff.

[U] Q. Right. Yeah.

[U] A. And they came in with that mindset whereas the people at Abu Ghraib were trying to respond to the Division Commanders.

[U] Q. Right.

[U] A. That says where's the next ambush site? Where are they getting all these IEDs from? , you know who's the leadership in this village? Much more tactically oriented as we should be in an insurgency.

[U] Q. Okay, Sir, was this different focus then between the two different groups, how did that contribute, if at all, to the abuse that ultimately occurred? Did it have to do with the different interrogation techniques that may be used depending on your focus? And I'm not trying to put words into your mouth—

[U] A. No. No, It really did not impact the abuses at all. This was just an inefficiency that existed that we addressed in our investigation and in our report. But it had no impact on the abuses. Now the GTMO Team did have an impact on the abuses but not in regards to what we just spoke about.

[U] Q. And can you elaborate on that, Sir? That kind of flows—

[U] A. Yes, there was the GTMO Team that came to assist Abu Ghraib and to learn the Tiger Team method that General Miller successfully used in Guantánamo Bay. And members of that team from GTMO, or one member in particular, actually observed and reported that abuse or those instances. There were two instances of abuse to his supervisor.

[U] Q. And that was (b)(6)-2 & (b)(7)(C)-2 reporting to Chief (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2

[U] A. That's correct. And, and for whatever reason Chief (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 doesn't recall either of those incidents and did not therefore take them any higher and didn't do anything about the abuses that reported to him. And Specialist (b)(6)-2 & (b)(7)(C)-2 we found to be a very credible witness and Chief (b)(6)-2 & (b)(7)(C)-2 agreed that if he says he reported them to me I—he was confident that it was reported to him. He just plain for whatever reason doesn't remember those instances. But I believe that the fact that the Guantánamo Team was present during interrogations, that were abusive, and that no action was taken—, that that in essence condoned those procedures, because here we have the experts from GTMO. They see this stuff going on and—

[U] Q. Nothing happens.

[U] A. Nothing happens.

[U] Q. All right, Sir. I understand that now. Did Chief (b)(6)-2&(b)(7)(C)-2 or Specialist (b)(6)-2&(b)(7)(C)-2 have any responsibility to report their observations of these abuses that we just talked about to General Miller back in GTMO?

[U] A. No, not—-

[U] Q. Because they were OPCON as I understand it to the 800th at that point.

[U] A. They were—well not to the 800th. They were OPCOM to the 205th.

[U] Q. To the 205th, yes, Sir. Right.

[U] A. And they had a responsibility, especially (b)(6)-2&(b)(7)(C)-2 I think. I think (b)(6)-2& (b)(7)(C)-2 fulfilled his responsibly because he told (b)(6)-2&(b)(7)(C)-2 who was his supervisor and the supervisor according to (b)(6)-2& (b)(7)(C)-2 said he'll take care of it. He was going to talk to Colonel Pappas about it. So I think (b)(6)-2& did fulfill his responsibilities.

[U] Q. Right.

[U] A. The shortcomings were on Chief (b)(6)-2&(b)(7)(C)-2 performance. But that reporting chain at that point would have been to Colonel Pappas. And that was definitely a shortcoming. But no, he did not have, the responsibility to therefore report it to Miller. Miller wasn't there. He wasn't OPCOM to Miller. Since he doesn't remember it, he couldn't have told Miller about it anyway, but—so.

[U] Q. Right, and you have no evidence that General Geoffrey Miller was ever made aware?

[U] A. I specifically asked Miller that question. And General Miller told me no, (b)(6)-2&(b)(7)(C)-2 never had any such conversation with him. And (b)(6)-2&(b)(7)(C)-2 said no I never told Miller because I never told anybody because I don't remember being told.

[U] Q. Okay, Sir. Do you think General Miller bears any responsibility at all for this failure to report abuse?

[U] A. No,

[U] Q. As indicated by (b)(6)-2&(b)(7)(C)-2

[U] A. No. No. I mean (b)(6)-2&(b)(7)(C)-2 is I forget if he's a CW3 or a CW4—

[U] Q. Right.

[U] A. As we're sitting here today I cannot imagine what the heck happened in that incident. He—from what I have observed, what General Miller told me, and what others told me about (b)(6)-2&(b)(7)(C)-2, upstanding, you know. Subject matter expert—, how he could not have reported something like this and not even remember it is beyond me. I cannot understand it as we sit here today.

[U] Q. Yes, Sir, in one of his statements he indicated that he was sick at some point. But--

[U] A. He was ill at the– but even being ill I can't understand it.

[U] Q. Right.

[U] A. But yes, both (b)(6)-2&(b)(7)(C)-2 and he, and he did go on sick call the next day after this occurred, but still, I still can't understand how he couldn't have reported it.

[U] Q. Okay. You already discussed how in your view that the JTF GTMO Team quote unquote "validated" the use of unacceptable interrogation techniques by being present when such techniques were being used and nothing happened. So therefore, the folks at Abu Ghraib believed that they were okay. Is that a correct summation?

[U] A. Yes, that's my supposition.

[U] Q. Yes, Sir.

[U] A. Yes.

[U] Q. Yes, Sir. Okay. And finally, Sir, this is kind of an overarching question. In your opinion as a senior leader, did the actions of any senior leader noted in your investigation constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. No.

[U] Q. Okay. Sir, is there anything that, we failed to ask you that you would like to add?

[U] A. No.

[U] Q. Okay, Sir, well in that case if you've got nothing else to add I'll go ahead and do the formal read-out and let you get back to work.

[U] A. Okay. Great.

[U] Q. First before we get into that, Sir, based on the questions that I've asked you, is there someone else that you think we should talk to and why? I've already mentioned that we'll talk to General Jones tomorrow. Are there key folks that you have interviewed that you would recommend that we re-interview based on the results of our questions?

[U] A. And the focus of your investigation again is what? The senior officials?

[U] Q. The senior officials. Yes, Sir.

[U] A. General Jones obviously, I think is a key individual. You know I had a whole team of investigators. You certainly have access to all their names. If there are any fact issues that you think need further clarification on, certainly feel that you could review that list and speak with any of those.

[U] Q. Okay, Sir.

[U] A. But I don't think any of them that would have the degree of knowledge that I had relative to the subjects you talked about.

[U] Q. Yes, Sir.

[U] A. Because they didn't focus on senior leaders. So basically, I was the one that dealt with those issues.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Okay. All right, Sir. Great. We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] MG FAY: Yes.

[U] MS (b)(6)-2 & (b)(7)(C)-2 Sir, do you have any questions?

[U] MG FAY: No, I do not. Thank you.

[U] MS (b)(6)-2 & (b)(7)(C)-2 All right, Sir, the time is 1415 and the tape-recorded portion of this interview is concluded.

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Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was transcribed and certified by (b)(6)-2 & (b)(7)(C)-2
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

DD

Telephonic Testimony of **COLONEL RETIRED**
[redacted]
Taken between Presidential Towers, Crystal City,
Virginia, and Carlsbad, California,
Between the hours of 1810 and 1856,
3 November, 2004 by [redacted]
[redacted] united States Army Inspector General
Agency, Washington, D.C.

[redacted] The time is now 1810. This tape-recorded interview is being conducted on 3 November, 2004 at Presidential Towers, Crystal City, Virginia and Carlsbad, California.

Persons present are the witness Colonel [redacted] and the Investigating Officer [redacted]

This inquiry is directed by The Inspector General of the united States Army concerning allegations regarding detainee OPS in Iraq.

An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation, or may be directed by proper authority.

Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Account Number to help identify you as the person testifying, you've been previously provided with an explanation of the Privacy Act.

Sir, do you understand it?

COL. [redacted] I do.

[redacted] You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

Sir, do you have any questions before we begin?

COL. [redacted] I'm fine. Thank you. No.

(b)(6)-2 & (b)(7)(C)-2 All right. Please raise your right hand so I may administer the oath. Right hand so raised?

(b)(6)-2 & (b)(7)(C)-2 Raised.

[ Colonel [Retired] (b)(6)-2 & (b)(7)(C)-2 was sworn and testified under oath as follows:]

BY (b)(6)-2 & (b)(7)(C)-2

Q. All right, Sir. For the record please state your name?

A. (b)(6)-2 & (b)(7)(C)-2

Q. Your rank and component?

A. Colonel, US Army Retired.

Q. And your current position and organization?

A. (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2

Q. And your Social Security Account Number giving it is completely voluntary on your part to provide.

A. (b)(6)-2 & (b)(7)(C)-2

Q. And an address home or office?

A. Home. (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2

Q. All right, Sir. Now this will be an unclassified interview, Sir. So we cannot make any references to any particular units by name, and specifically the one I'm talking about Special OPS type units. All right, Sir?

A. Okay. So I'll just tell you in a code you'll understand then.

Q. Well I do have your memorandums that you have written. So I know what units you would be referring to. Sir, when you were informed of the possible abuses to detainees located in the vicinity of the Baghdad International Airport, who brought this to your attention?

A. I was contacted by Mister (b)(6)-2 & (b)(7)(C)-2

Q. Did he call you or e-mail you or--

A. I believe he e-mailed me but it might have been a phone call. Let me see--no, it was a phone call. He called me.

Q. Okay. And this occurred approximately when, Sir?

A. The 24th of November 2003.

Q. What exactly did he tell you, Sir?

A. (b)(6)-2 & (b)(7)(C)-2 told me that he wanted to share with me some information about things that were going on in Iraq with respect to the handling of EPW or detainee personnel. That he wanted me to be aware of, because he had heard that I was preparing to go to Iraq in a consultant capacity dealing with detainee and detainee exploitation.

Q. Did he give you any indication when these possible abuses had occurred?

A. He did. He said that he had actually been there in Iraq on the ground and was the one who had established a Joint Interrogation and Debriefing Center which he established and ran initially at Baghdad International. And that the timeframe of this was June and early July 2003.

Q. Did he state he had witnessed abuses or he had just heard of the abuses?

A. No, I believe he told he had personally witnessed the effects of such abuse. That is to say prisoners, detainees, were being brought to him, where it was pretty evident that they were being abused. Or they having been brought to his center were being signed out for off-site exploitation and returned in a condition that showed signs of abuse.

Q. And I have a copy of the e-mail that he had sent you, Sir. And when he states that the personnel that were abusing the detainees were Agency guys and Army guys. Who was he referring to when he spoke of Agency guys?

A. I don't know who he was referring to specifically but I know that he was in general referring to different civilian agency types as well as military types who worked in an organized unit that was responsible for hunting down and bringing to justice or apprehending high value detainees.

Q. Got it. So you're saying that the agency guys and the Army guys were working with the same unit?

A. Yes. It was one organization that was out there doing the hunting and when they made a capture they brought them in not frequently right away, but after a certain delay. They would bring them into [redacted] facility where they were supposed to be housed, fed, and interrogated. And that was how [redacted] observed and made his observations in that capacity.

Q. Sir, you said that [redacted] had established the JIDC there at the Baghdad International?

A. Yes, and that's in the memo that you have dated 26 November 2003. I assume that you have that memo, is that correct?

Q. Yes, I do. Yes, I do, Sir.

A. And so the details, the things you're asking me, are in that memo, and it's more reliable than my verbal answers now. I'm referring to the memo as we speak.

Q. Well based upon the phone conversation and I guess the e-mail that he sent to you, did he give you any indication that he had taken these allegations of abuse to anyone higher?

A. He did indeed. That's the subject in paragraph 4 of my report. I specifically called him back after the first phone conversation and interviewed him in some detail, and one of the things that I wanted to do was to find out clarifying information from him to include did he report the matter, and if so, to whom, and what was he looking for? Why was he contacting me? What did he wish me to do?

Q. Did he give you any specific names of individuals that he had reported this to?

A. He did. Let's see that's again in paragraph 3 and 4. There's a number of people who are either aware of the problem or saw, for example he refers to a guy, a Civilian GS-15 named [redacted] who was a Collection Manager in that organization. And [redacted] said was in a position to verify because [redacted] had seen one detainee, [redacted] and the damage done to him. He mentioned a British Officer, Major [redacted] [redacted] who was aware of the problems with brutality and then he gave a laundry list of people to whom he reported this to.

Q. Did he specifically name any Army Officials, or were they--

A. Or Army Officials detailed to a non-Army unit.

Q. Correct.

A. And he says that he complained to Major General Dayton.

Q. Did he specifically tell you what he told General Dayton?

A. He says he complained to him. Well when he told me he complained to him, it was very clear to me what he meant by that was the substance of the problem, namely that the abuse was going on by the capturing unit.

Q. Did he indicate to you what actions General Dayton or let's jump back. Did he indicate when he had complained to General Dayton? Was it--we're still talking the June-July 2003 timeframe?

A. Yes, we are because (b)(6)-2 & (b)(7)(C)-2 finally was sufficiently upset about the problem by early July that he basically didn't want to associate himself with it anymore. And essentially his words to me were he gave up and asked to leave. Asked to depart theater. He didn't want to have anything to do with it. And he did not think that the people he told about it, in this case General Dayton whom he understands, he believes, Dayton then brought the information to the CENTCOM Chief of Staff. As well as the CINCCENT General Franks. He believes that the Red Cross knew about the problem, and that CENTCOM'S attitude was when the ICRC writes it up we'll deal with it.

Q. Okay. So General Dayton was within his Chain of Command, is that correct, Sir?

A. That's correct. Yes. I think--well General Dayton's Chain of Command, it's not clear to me that General Dayton's Chain of Command went through CINCCENT.

Q. Okay.

A. It's not clear to me. I don't have a line and block chart. I think that whole outfit that General Dayton was the head of was a Civilian/Military outfit and that the chain ran and you can check me on this, but I think that chain ran not through CINCCENT but rather back to Washington, D.C. You have to check that.

Q. But you believe he reported to Major General Dayton and that Dayton had at least attempted to take some action by--

EXHIBIT-

(b)(6)-2 & (b)(7)(C)-2

A. Going to CENTCOM.

Q. Going to CENTCOM?

A. Yes. That would argue that CENTCOM is in the chain of command, but it's not clear to me that that's the case.

Q. But given the fact that General Dayton was not in the chain of command of the units that are allegedly performing these abuses?

A. Yes. I don't know. I know what General Dayton's title was and it's certainly an unclassified unit. The Iraq Survey Group.

Q. Right, the ISG. Yes, Sir.

A. The ISG. He's the Commander of that thing. As to where that thing latches up between dotted lines and solid lines, and operational control or admin control or straight back, I'm not real clear on that. But I know that [redacted] was explicit that he took General Dayton and [redacted] who was the big boss to the Interrogation Center and showed them the poor conditions there. That's a little bit different than saying that there was mistreatment. But the conditions were terrible and he felt that the conditions were not conducive to good exploitation.

Q. He also alludes to possible e-mail between himself and General Dayton. Have you seen any copies of those e-mails?

A. He told me that he had heard from Dayton, "that it's worse than you think and that one of them was even killed" or something like that. And [redacted] told me he had that Dayton e-mail. And a photo of one mistreated prisoner, but I never got that from him. He also reported it to a [redacted] who was a GS-16, ISG OPS Officer.

Q. Could you spell that last name, Sir?

A. [redacted] It's in paragraph four of the report. My memo. My 26 November memo. It also says he reported it to the DIA Chain of Command in Clarendon, when he got back. Specifically General Counsel [redacted] and [redacted] Both [redacted] and [redacted] [redacted] were told. They told him the matter was being investigated.

Q. So it looks like in June and July he had reported these abuses to his chain of command within Iraq. He got fed up

I bluntly asked him whether mistreatment was going on or whether he'd seen evidence of mistreatment of EPWs or detainees when they arrived by the capturing units. And he told me he had indeed seen it.

Q. And it's from the capturing unit?

A. Yes. From--on the part of the capturing units.

Q. Okay, Sir, he didn't indicate any abuses by the MP Battalion?

A. No. None whatsoever. If I recall I said to him you know, "Are you aware of any of this is either going on or what not?" and he said, "Yes." And I said, "It's going on?" and he said, "Yes, Sir." I said, "Have you reported it?" And his answer was, "Everyone knows it." And I said, "That's not what I asked you. I want to know if you reported it. Did you report it to your commander, to the JAG, to anybody in writing?" And he said he had not. And I said, "Well, how do you know it's going on?" And he said, "Because when they show up they show signs of being abused and beaten." And I said, "Well how is it documented?" And he said, "Our medical team that you saw here does an arrival medical exam with these detainees and on more that one occasion on multiple occasions they document it in the medical file detainee shows signs of having been beaten."

Q. So you had basically asked him to begin reporting and did he give you any indication that he was going to?

A. No. This was as we were getting ready to leave. It was about the last thing I did on the trip. I essentially said to him, "I'm going to give you some advice when things like this are going on, if you don't report it and report it in writing when this hits the press, the you know what will hit the fan. And it's on you if you knew about it and you didn't report it. You should report this in writing to your chain of command to include to the JAG and the next time a capturing unit brings a detainee, who shows signs of being beaten, you should call them on it. Right there on the spot and tell them this must stop. And tell them that you're going to report it." I said, "I found out about this in California. If I found out about it in California it's going to get into the media."

Q. Yes, Sir.

A. He nodded meekly.

Q. Did you brief anybody else regarding your concerns?

(b)(6)-2 & (b)(7)(C)-2

with it. Came back to the States and had reported it again to his unit back here in the D.C. area?

A. Yes, I got the impression from my interviews of (b)(6)-2 & (b)(7)(C)-2 that he had reported it multiple times and the reason for calling me was that he was distressed that there was never any follow-up on it. No, he expected after having rendered all these reports that there would be someone like you coming to him to do an interview like this. It never happened. He was upset. He had worked for me in the past. He, I think, felt that I was someone who got things done. And that he'd have one more try and his motive was that he just wanted it to stop. He knew it was wrong. And he wanted it--what did he tell me? He feels loyal the Army. He hadn't reported it to the Army but he had reported to everybody else and what he really wanted was that this thing be corrected so this never happens again.

Q. Okay. So you took the interview that you conducted with him along with the e-mail and when you went over to Iraq who did you inform of the abuse?

A. I went over to Iraq. I don't think I brought his e-mail with me. But I brought the report. There were a couple of e-mails between him and me, but I don't remember that I actually brought the e-mails. I think I used the e-mails to help me write the report. I brought the report with me after I was invited over there by General Fast through DA G-2. And with the intention of while I was in theater pursuing it.

Q. Okay, Sir, and you evidentially got to at least visit the site. Is that correct?

A. I did. I visited the site. Had a tour of the entire site. Observed their care and feeding and their procedures in some detail step-by step from arrival of a detainee until he's housed and then sometimes mainstreamed into a room where a bunch of the detainees could be together if they were finished with them. And during the course of that had the opportunity to talk to a civilian whom I believed to be the OIC of the facility from the point of view of the intelligence exploitation piece of the facility.

Q. Did you relay any concerns to him?

A. I did. I believe his name was (b)(6)-2 & (b)(7)(C)-2 I think it was (b)(6)-2 & (b)(7)(C)-2 I believe he was a--I think he was a civilian. But he was the head of the actual interrogation debriefing element that was housed about a half a mile away or some distance away from the camp. The camp was being run exclusively by the MPs, the 800th MP Battalion and the 800th MP. I did. I took him aside and

A. My Team over there with me Lieutenant Colonel Promotable at the time [redacted], in fact he had come out on the Colonel's list I think the day before, and Lieutenant Colonel [redacted] from DCSINT or what do you call it G-2 DA, told them about it. Of course they knew about the [redacted] allegation because I briefed them before we went out there. So I shared it with them, and then the next person I shared it with was General Fast during my out-brief a couple of days later.

Q. And what indication did she give you as far as what action she was going to take?

A. She registered her immediate concern and it was clear to me she understood how serious it was. And I essentially told her words to the effect of I know I'm putting this on you and it's the other half of the house here. It's not your facility. You don't own it. It's these other guys, but since you're the person who invited me here and you're the MI General Office I'm bequeathing it to you. And she understood that since she invited me over and I was out-briefing her and she accepted the fact that I was going to dump it on her and she'd have to do something with it. And I gave her a copy of the memo that I had written, the 26 November memo.

Q. Okay. And did she say she was going to take action on it?

A. Oh, yes.

Q. Did she give you any--do you know if she did take action on it, to the best of your knowledge?

A. I do understand she took action on it. Both from an e-mail she sent me some months later and from the fact that people from the CJTF-7 JAG office subsequently e-mailed me as a professional courtesy to share with me the action that they had taken and it appeared to me like they did an investigation. I mean by 'they' from what I can tell from this e-mail traffic from the captain and the colonel at CJTF-7 JAG that they did their own investigation.

Q. And what were the results? Did they did give you an indication of the results of the investigation?

A. They did. They sent me a letter they planned to send to [redacted] And I e-mailed them back and told them that I was very concerned about this letter. And that [redacted] himself could be excused for thinking that this was a cover-up. I expressed essentially some pretty relatively blunt dismay that

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[redacted]

"their investigation" in quotes could conclude what they concluded given that I gave them the names of the witnesses and I had already two people who admitted it. And let's see in my e-mail to the JAG captain, "If found persuasive evidence in response to queries I made as a result of Miste (b)(6)-2 & (b)(7)(C)-2 approach to me, then how could an investigation find nothing?" That's the next to last sentence in my e-mail to Captain (b)(6)-2 & (b)(7)(C)-2 And I went on record. I said, "I just want to be sure I'm on record on this. I simply don't see how you could possibly come up with a blanket conclusion that no evidence to support the allegations that detainees were mistreated could be found." That's a quote from her letter. I said if you send this to (b)(6)-2 & (b)(7)(C)-2 could be excused for thinking that this is a cover-up. For that I got a response from her colonel giving me all sorts of very unpersuasive reasons why they just couldn't seem to succeed in their investigation. And I have all this traffic and I'll be happy to send you.

Q. Yes, Sir, I would appreciate it. When we go off tape I'll give you my fax number and if you could fax it to me.

A. Well, I've got more--to assist you in this matter. I've got about fifty or sixty pages of stuff here. I'd be better to FedEx it to you.

Q. I'll give you my FedEx address then, Sir.

A. Yes, I think you should have everything I have.

Q. Okay, Sir, so did you have any other conversations with other than General Fast and the correspondence that you had between the two JAG officers?

A. Yes, when I returned to the Pentagon on my way back from Iraq. It was scheduled that I would have an out-brief with Lieutenant General Alexander and (b)(6)-2 & (b)(7)(C)-2 his Civilian Assistant. I believe that took place on a Saturday morning and I'll guess that it was around December the 12th or so. You can check on that. It was about the one day before the day they caught Saddam Hussein. So I am pretty sure it's December 12th or 13th, a Saturday. And I out-briefed General Alexander. I provided him a copy of my report that I had just e-mailed to General Fast. I provided him a copy of the 26 November memo on the (b)(6)-2 & (b)(7)(C)-2 thing to include that I had given it to General Fast and that she had taken it on. And had some discussion with General Alexander explaining what we had encountered at the facility where Mister (b)(6)-2 & (b)(7)(C)-2 acknowledged that this was going on and that he knew about it and that he had not reported it.

Q. And what was General Alexander's response?

EXHIBIT-

[redacted]

A. Concerned. I forget what he said but it was very clear to me he looked at (b)(6)-2 & (b)(7)(C)-2 and (b)(6)-2 & (b)(7)(C)-2 assured him that they would follow up on this and that it was taken very seriously.

Q. And it was December of 03. When is the next time that you had heard anything regarding these alleged abuses? Was it when the JAG captain had e-mailed you?

A. Yes, well of course in the meantime Abu Ghraib happened. And that broke in about February I think. I'll take a guess late January or early February. And that was real distressing and disturbing to me because my team and I had been there for the better part of one day. We had observed no such thing although we observed a lot of bad things there. That's one you're not going to pick up on the day shift. You know? They're not going to be carrying on like that. So I found myself wondering you know what's been done on the other matter and out of the blue on about the 1st of April or sooner I received a e-mail from Captain (b)(6)-2 & (b)(7)(C)-2 No, I'm sorry. Friday, March 19th, I got a copy of an e-mail--no April 1st I got a copy from Captain (b)(6)-2 & (b)(7)(C)-2 of an e-mail that she sent to (b)(6)-2 & (b)(7)(C)-2 And that's when--so it was right around 1 April the thing pops up again because Captain (b)(6)-2 & (b)(7)(C)-2 from the CJTF-7, Admin Law Attorney's Office, is communicating with me and (b)(6)-2 & (b)(7)(C)-2 to essentially close the loop on what they found out.

Q. Okay, Sir.

A. So I think that's about the next time it comes up. And when that happens I communicate with Lieutenant Colonel (b)(6)-2 & in G-2 and (b)(6)-2 & (b)(7)(C)-2 and essentially say to them that this approach that's taken by this Captain (b)(6)-2 & (b)(7)(C)-2 and her colonel is really unsatisfying and unprofessional. And shame on them. And what kind of amateur hour is going on over there that they should come back with an answer that they're unable to find anything. Any evidence of any wrongdoing when it's very clear that we had witnesses. And you know don't they know how to pursue a witness? Stuff like that.

Q. Did Mister (b)(6)-2 & (b)(7)(C)-2 or Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2 give you any indication what they were going to do?

A. Yes. My memory is and I'm not perfect on this but my memory is that (b)(6)-2 & (b)(7)(C)-2 told me and I think maybe (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 that you know you couldn't disagree with the fact that this was really a shame. You know what I mean? That it was not very professional and I believe that they said they were going to bring it to the DAIG. I think DAIG.

Q. That's the only other--and then you stated you had some e-mail traffic back and forth with Captain (b)(6)-2 & (b)(7)(C)-2

A. I have that e-mail traffic for you.

Q. When was the final communication with the SJA Office at CJTF-7?

A. Wednesday, April 7th, after I sent back an e-mail saying I don't know how you can come up with this. This is not very satisfying and (b)(6)-2 & (b)(7)(C)-2 could be excused for thinking it's a cover-up. That was a pretty heavy e-mail as e-mails go for a captain. And the next thing I got was a letter to me from the Office of the SJA, from the SJA himself, Colonel (b)(6)-2 & (b)(7)(C)-2 and he says, "Dear Colonel (b)(6)-2 & (b)(7)(C)-2 Thanks you for your e-mail expressing concerns about the investigation into the reported irregularities occurring at the JIDC in Iraq." And then he gives all his reasons as to why they really weren't able to do much about this. But I should be assured that the Investigating Officer did have my report, et cetera, et cetera, et cetera, and again not a very satisfying response. And I probably--and I'm quite sure I shared that with (b)(6)-2 & (b)(7)(C)-2 at the G-2 Army. I just felt like (b)(6)-2 & (b)(7)(C)-2 complains about this stuff and doesn't hear a word throughout July through Christmas 03 or July through November. (b)(6)-2 & (b)(7)(C)-2 calls me and asks me to look at it because he wants this thing to be handled. I look at it. Find confirmatory evidence. Report it again in theater this time. And out of it three or four months later comes a colonel telling me that they just couldn't find anything due to all the time that passed from the time I interviewed this guy in early December until they're out investigating for almost four months later. I just found it to be unimpressive.

Q. Got it, Sir. So that's the last time you had spoken with anybody or received any correspondence from anybody regarding the alleged abuses?

A. I could have over the course of the next month or two or three. Could have had a phone conversation with (b)(6)-2 & (b)(7)(C)-2 or with (b)(6)-2 & (b)(7)(C)-2 which would have been you know anything happen on that, any results on that? I don't specifically recall it, but it would have been like me if I'd been on the phone with them as this issue at Abu Ghraib played out. And so I couldn't rule out that I said something to one or the other of them about it. But I'm looking through e-mails and stuff here and I'll send you what I have.

Q. Has anyone else contacted you regarding these alleged abuses?

A. I was. I was contacted by the DOD IG.

Q. And how long ago was that, Sir?

A. I'll take a guess. Maybe three weeks ago. Four weeks ago.

Q. Now have you had any more contact with Mister (b)(6)-2 & (b)(7)(C)-2

A. Not since I think he e-mailed me after I returned at some point and said, anything going on? Have you heard anything or something like that? Or he got the letter maybe and he might have e-mailed me a one-liner, Did you hear anything about this? or something like that. But I've had no conversations with (b)(6)-2 & (b)(7)(C)-2 whatsoever. There might have been one or two fragmentary e-mails but I'm not sure.

Q. Okay, Sir, just looking through to make sure--

A. In fact I have my (b)(6)-2 & (b)(7)(C)-2 e-mails here. Let me just see. (b)(6)-2 & (b)(7)(C)-2 a JAG officer. I have (b)(6)-2 & e-mails. The first one is Monday, November the 24th, and 15 to the 25th and there is a picture of the facility. March 6th, I have an e-mail from (b)(6)-2 & (b)(7)(C)-2 "How have you been? I haven't heard much news of any investigation. Has (b)(6)-2 & (b)(7)(C)-2 or Barbara Fast been in touch? Seems like everything is under the deck, if anything is happening at all." It's a frustrated e-mail on his part.

Q. Did he give you an impression that no one had contacted him?

A. Yes, he said, "I haven't heard much news. Guess some things never change. Looks like Army is getting back in the business after ten years and they've discussed our effort is a failure. We told them this from the get go if you remember. Hope you're doing okay." Yes, and he e-mailed me because (b)(6)-2 & (b)(7)(C)-2 died. He sent me an e-mail about (b)(6)-2 & (b)(7)(C)-2 dying. Yes. So I have e-mails from (b)(6)-2 & (b)(7)(C)-2 for the period April 04, March 04, March 6, 04. I have e-mails from (b)(6)-2 & (b)(7)(C)-2 Maybe three or four here. Between him and me, between March 6, 04 and June 28th. Okay? And I shall send them to you.

Q. I would appreciate it. I would appreciate any of those e-mails and documents. Although I believe the memorandums that you're referring to.

A. Yes, I'll send them to you anyway.

Q. Yes, Sir, that's all the questions that I have for you. Do you have anything else you wish to present?

A. I guess the only would be and I thought you would have asked me, is what response if anything did I get to my report. Do you have my report that was sent to General Fast?

Q. Yes, I do, Sir.

A. Okay. We gave her that report on about December--faxed it to her or e-mailed to her on about December the 13th. And on June 14th 04, I received an e-mail from General Fast. She officially confessing to me that she just found my report in her e-mail account on 27 May. That since it came from Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2 she didn't recognize his name and they captured Saddam at the time. She had not gotten to a lot of her e-mail. And she was going through her e-mails to spruce her memory up on Abu Ghraib. I think the Fay Commission was on its way over to interview her at that time. And she encountered my report for the first time.

Q. But you had already verbally out-briefed her did you not, Sir?

A. That is correct. I verbally out-briefed her on virtually everything in the report, other than I gave her a couple of observations about a couple of her people of the sort that I didn't choose to put in writing, but I felt she needed to know it from me. So she got a pretty good detailed out-brief from me and although when I first got her e-mail I thought this is weird you know. I can't believe this that she didn't see this report. And you know it crossed my mind and I wouldn't be human if I--if it happened, but you know, did she really not see my report? Or in light of the Abu Ghraib thing is this something here that's convenient and comfortable? And then knowing her and the character of her as a person I ruled that out. I don't believe that that was the case and so I returned her e-mail by saying--and I have that on June 30th. She sent me an e-mail June 14th and I'm really busy at that time. I think I was traveling. June 30th I replied to her e-mail referring to the fact that she had most of the stuff from the verbal out-brief anyway. She had taken action. She specifically states that she took action on the one issue, the (b)(6)-2 & (b)(7)(C)-2 issue. She says we discussed it and forwarded the info the next day to the CG, meaning General Sanchez, and he through CENTCOM and the investigation was conducted. That was a little bit of a curve-ball for me because the investigations results that I was told about came from the mouth of her JAG and her JAG captain. Yet she says in her e-mail that they sent it to CENTCOM where an investigation was conducted. Although you could read it either way, you'd have to see the e-mail for yourself. Anyway I sent her a response and I honestly believe having had time to really think it over that she honestly didn't see that report precisely for the reason that when you're a One Star Promotable in a wartime Headquarters like she was, with what she had on her plate, that it would have been easy for her to have missed this e-mail from (b)(6)-2 & (b)(7)(C)-2. Had it been from me versus (b)(6)-2 & (b)(7)(C)-2 she probably would have opened it, and I'm also very conscious of the fact that she invited me over there to look at an area that she thought was (a) a critical area. Probably the most important thing that they were doing in intelligence collection, but which (b) by her words she knew was not in a good state of health and she wanted me to look at it. And it took a lot of courage for her to do that. She invited an outsider into the tent to look at an area that she's responsible for. That she considered to be in an ill state of health, and for that reason I thought that showed great character. And that's why I made my report confidential to her although she understood that General Alexander would see it, but that my report when it was sent to her was not sent to her subordinates or to anybody but her. She asked me over. She deserved the professional courtesy of a report from me to her and the fact that she didn't read the written version until May I accept that.

Q. Got it. But you did provide the written version to General Alexander when you came back though Washington is that not correct, Sir?

A. That is correct. I told her when I left at the out-briefing that I would clearly share it because my appointment to brief General Alexander was the day I got back. That I would write the report on the airplane. That I would brief the report and share the report with General Alexander, but that I would e-mail her the report at the same time, and if there was anything in the report that she felt that I either erred in fact, got it wrong, or that where the language was just such that she was uncomfortable with it and would like me to tone it down or otherwise make it better, that she could e-mail me back and I would be pleased to do that. And I extended her that courtesy again because she had bigness of professional spirit to invite me over and giving her a look at it with the idea to be sure that what I write is not unfair or incorrect or maybe even overly emotional or something. I thought that was a courtesy she deserved. She never did send any response back whatsoever and now I understand that she didn't see that written report till May.

Q. Did she display any shock at some of the things that were in the report once she read it?

A. Indeed she did. There were several key things in the report. And I have my notes of my out-brief to her. I did a handwritten outline. Detailed handwritten outline before I walked into her office, and it was just her and me and those notes I'll send to you. She had several of the revelations. Particularly the Abu Ghraib situation. Overcrowding, powder keg waiting to go off, lack of support, she was astonished. In a couple of cases she said, "I was unaware of that. I didn't know that" or "I thought we fixed that." And it was very evident to me that she was not being well informed by the Staff Officer responsible for Human Counterintelligence (a) and (b) by her FOB, Commander Colonel Pappas. And I told her that. I didn't put it in my report. But I told her that my assessment of Colonel Pappas was very negative based on my visit with him and how he tried to you know guild the Lilly with me as opposed to being frank and I also told her that her Colonel (b)(6)-2 & (b)(7)(C)-2 who was her Chief of HUMINT/CI although a fine fellow and bright fellow was to me not the right guy for the job. He was desk bound and didn't seem to really have a grasp on it. And the fact that she didn't know what was going on in that critical area told me that the two people that would be responsible to be sure that she did know what was going on, would have been Colonel Pappas and Colonel (b)(6)-2 & (b)(7)(C)-2 And the fact that she didn't know what was going on plus my observations of the two of them as they did their jobs forced me to say to her again not in writing that I thought she was not being well served by either of them.

Q. Got it, Sir. That's what you told her verbally?

A. Yes. That was the night before we flew back and that would have been--I'll take a guess Thursday. well, I can tell you exactly when it was. I think it was the 11th of December. Was it was either the 10th, Wednesday the 10th, Thursday the 11th, or something like that.

Q. Okay, Sir.

A. It was about nine at night. It could have been the night of the 9th or the 10th, because you know you had to go out and wait for your chance to get on the airplane and you couldn't just go out there and jump on a plane. The whole world--these Soldiers are trying to get home for Christmas you know. And I told her I knew (b)(6)-2 & (b)(7)(C)-2 I knew him when he was a teenager. His dad is Colonel (b)(6)-2 & (b)(7)(C)-2 And I knew them from when he was a teenager and his father brought him to Vietnam where we served together during the cease fire. And then I really liked him. But that to me having had the same job in Desert Storm, I had that same job for General Stewart. And I know what the job involved. You couldn't do the job sitting behind a computer all day.

Q. Yes, Sir. Sir, is there anything else you wish to present?

A. No. I think that that about covers it. I'll send you the report. I'll also send you my report to General Dunlavey when I went to Guantánamo Bay to evaluate their area. I'll send you reports that I wrote for Colonel (b)(6)-2 & (b)(7)(C)-2 at CENTCOM Headquarters the month before I was asked to come over by General Fast. I guess the last thing that I would say and it's a little bit outside the scope of what you're saying or what you're asking me about. Is that it was very distressing to go over there and find out that they didn't have a sophisticated Human Exploitation Facility over there, such as Iran and Desert Storm and Panama. And the fact that they didn't, the fact that they were treating detainees like, in a very hostile Enemy Prisoner of War mode as opposed to being more sophisticated in having a sophisticated facility with an appropriate approach just told me that there's no institutional memory in the Army. The doctrine is lacking. The trained people of the expertise and the skills that are required are lacking. And the result is they went over there with a very one dimensional and short-sighted approach on how we treat prisoners and how we house them; and how we take care of them; and it was not a very good show.

Q. Sir. Who else do you think we should talk to and why?

A. Well you could talk to Colonel (b)(6)-2 & (b)(7)(C)-2 but if you're not willing to fly to California of because you're unable to fly to California because of your schedule, you know, good luck because he's in Korea.

Q. Yes, Sir.

A. Very keen observer of reality. Colonel (b)(6)-2 & (b)(7)(C)-2 now Full Colonel (b)(6)-2 & (b)(7)(C)-2 I think he's stationed in Berlin in a Special Assignment. He certainly is a good co-testifier although they weren't with me when I out-briefed General Fast on purpose. They came with me for her welcome in-brief but then I went in just the two of us for the out-brief because my experience told me that's a better way to do it when you're going to say things that are delicate. You could talk to them. Certainly Colonel (b)(6)-2 & (b)(7)(C)-2 who served with me in the Panama Interrogation Center that we ran and the Desert Storm Interrogation Center has a very keen idea of the overall bigger problem that may not be part of your scope which is why we stepped on it over there and didn't know what we were doing with respect to exploitation of Human Detainees. Those would be the ones that I could think of.

LTC (b)(6)-2 & (b)(7)(C)-2 Okay, Sir, we are required to protect the confidentiality of IG inquiries, and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officer.

Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record to include your testimony under the Freedom of Information Act.

Sir, if there is such a request, do you consent to the release of your testimony outside official channels?

COL. (b)(6)-2 & (b)(7)(C)-2 Without my Social Security Number, yes.

LTC (b)(6)-2 & (b)(7)(C)-2: Your name and personal information will be redacted. Sir, do you have any questions?

(b)(6)-2 & (b)(7)(C)-2 No, I think I'm fine. Other than I hope that somebody takes action and that somebody gets a hold of Mister (b)(6)-2 & (b)(7)(C)-2 and lets Mister (b)(6)-2 & (b)(7)(C)-2 know that the system might have taken a long time to work but that some action was taken, because I know him to be a person of great passion. I know how painful it was for him. And I think he deserves a hell of a lot of credit for having the courage to step forward and I think he needs some kind of reassurances that somebody finally better late than never addressed themselves to the matter in a competent and professional fashion.

LTC (b)(6)-2 & (b)(7)(C)-2 Okay, Sir, the time is now 1856 and the tape-recorded portion of this interview is concluded.

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[Testimony of **COLONEL RETIRED** (b)(6)-2 & (b)(7)(C)-2 was recorded by means of magnetic tape, and transcribed and certified by (b)(6)-2 & (b)(7)(C)-2 Certified Closed Microphone Court Reporter, united States Army Inspector General Agency, Presidential Towers, Crystal City, Virginia.]

C-28

# STATEMENT

The following is submitted as a follow-on to the DAIG interview. I have, in several statements, provided the dates/months of my visits to Abu Ghraib. I based my knowledge principally on what we could reconstruct from flight requests/actual flights and therefore actually confirm. In my mind I always felt that I had made another visit to Abu Ghraib subsequent to the 2 November visit where I accompanied LTG Sanchez, but my staff and I couldn't find the documentation. Now I have found my calendar card for 18 November 2003 which indicates that I did, in fact, visit Abu Ghraib for a 2 ½ hour visit on that date. This synchs with my recollection of a follow-up visit. There were a couple of reasons I wanted to make another trip. First, there is little flexibility to see and ask questions when accompanying the CG. Secondly, I wanted to follow-up on LTG Sanchez' comments and observations that he made to the 205th MI Bde/JIDC at Abu Ghraib on 2 Nov 03 to ensure actions were taken. Additionally, LTG Sanchez had been pretty stern and intense in his direction to interrogators to ensure that they didn't take the middle road, but rather be aggressive without going over legal boundaries. I wanted to ensure that the interrogators were not confused and that they didn't interpret his guidance as "doing whatever it takes to break them." During this visit I gathered all available interrogators and questioned them on understanding left and right limits and told them they were never authorized to go over the boundaries (as per my previous statements). Again, I left satisfied there was no confusion in the minds of the interrogators. My notes on the back of my calendar card also indicate, as per my previous statements, that I was concerned about force protection. I did a walk-through of the prison area (I do not believe I went into the hard cell area, but rather concentrated on the open areas and perimeter). I did this not as the C2, but as a senior leader in CJTF-7. Among other things, I noted that there had been seven escapes over the last few weeks, there were towers that weren't manned, and that there weren't enough MP's to escort prisoners. As I mentioned in previous statements, I provided this information to the command group upon my return and again discussed the leadership issue. This was in synch with LTG Sanchez' existing concerns over unity of effort and force protection. While I did not recommend that COL Pappas be appointed, nor was I informed until after the 19 Nov 03 FRAGO was published, my observations may have contributed to the TACON change directed by the FRAGO.

One additional clarification to my statements. I have, in the past, indicated that the Herrington verbal outbrief was on the evening of 2 Dec 2003. It appears as though his visit was actually 2-9 Dec, with 9 Dec being the outbrief.

FAST, Barbara G.
Major General, USA

23 Dec 04
Date

SAIG-IN

MEMORANDUM THRU

IN, LEGAL b)(6)-2 & b)(7)(C)-2 5 Feb 05

IG, LEGAL b)(6)-2 & b)(7)(C)-2 25 Feb 05

~~CH,~~ b)(6)-2 & b)(7)(C)-2 FEB 05

~~XO~~ b)(6)-2 & b)(7)(C)-2 1 MAR 05

FOR ATIG Approved b)(6)-2 & b)(7)(C)-2 Disapproved______ See Me______ Date 26 Mar 05

SUBJECT: Alleged Impropriety by MG Walter Wojdakowski, Deputy Commanding General (DCG), Combined Joint Task Force (CJTF) - 7, Baghdad, Iraq **(DIG 04-80044) (UPDATE)**

1. On 12 October 2004, The Inspector General of the Army (TIG) directed an inquiry into the allegation that MG Wojdakowski was derelict in the performance of his duty pertaining to detention and interrogation operations in Iraq during Operation IRAQI FREEDOM (OIF). (EXHIBIT A)

2. Background: MG Wojdakowski was assigned as the DCG, V Corps, Heidelberg, Germany, on 3 September 2002, and deployed to Iraq in February 2003. On 15 June 2003, V Corps was designated CJTF-7, and MG Wojdakowski became the DCG, CJTF-7, until 1 February 2004. MG Wojdakowski was rated by LTG Ricardo Sanchez, CG, CJTF-7.

3. Reports Reviewed:

a. On 9 September 2003, MG Geoffrey Miller, Commander (CDR), Joint Task Force (JTF) Guantanamo Bay (GTMO), completed a Department of Defense (DOD) assessment of counterterrorism interrogation and detention operations in Iraq. The assessment discussed the theater's ability to rapidly exploit internees for intelligence, and focused on three areas: intelligence integration, synchronization, and fusion; interrogation operations; and, detention operations. This assessment was commonly referred to as the Miller Report.

b. On 6 November 2003, MG Donald Ryder, Provost Marshal (PM) General, completed an assessment of detention and corrections operations in Iraq. The report made assessments and specific recommendations concerning detention and correction operations in Iraq to assist in resolving the management and administration of detainee operations. This assessment was commonly referred to as the Ryder Report.

c. On 26 February 2004, MG Antonio Taguba, Deputy CDR, Coalition Forces Land Component Command (CFLCC), completed an Army Regulation (AR) 15-6 investigation that inquired into the facts and circumstances surrounding allegations of detainee abuse at the Abu Ghraib Prison (AGP), Baghdad, Iraq. This report of investigation (ROI) was commonly referred to as the Taguba Report.

d. Based on recommendations in the Taguba Report, a further investigation was initiated on 15 April 2004, under the provisions of Procedure 15, AR 381-10, US Army Intelligence Activities, dated 1 July 1984. MG George Fay, Deputy G-2, US Army, investigated the relevant facts and circumstances surrounding the alleged misconduct on the part of personnel assigned and/or attached to the 205th Military Intelligence (MI) Brigade (BDE) at AGP (commonly referred to as the Fay Report). LTG Anthony Jones, Deputy CDR, Training and Doctrine Command (TRADOC), focused on whether organizations or personnel higher than the 205th MI BDE were involved, directly or indirectly, in activities regarding the alleged detainee abuse at AGP (commonly referred to as the Jones Report). GEN Paul Kern, CDR, US Army Materiel Command, was the appointing authority.

e. On 25 May 2004, the IG, US Navy, was directed to lead a DOD joint team for the purposes of identifying and reporting on all DOD interrogation techniques related to operations in GTMO, Afghanistan, Iraq, the Central Command (CENTCOM) area of operations (AOR), and the Iraqi Survey Group (ISG). Specifically, the assessment would ensure that all areas of concern to the DOD regarding detention operations were being addressed adequately and expeditiously, and would report any gaps or seams among those reviews and investigations. This assessment was commonly referred to as the Church Report. The Church Report was released on 10 March 2005, and was reviewed by DAIG. Although the Church Report included numerous references to MG Wojdakowski, DAIG's review of the Church Report revealed no new information relevant to this inquiry not already considered in other evidence.

f. On 24 June 2004, DAIG initiated DIG 04-80044 to identify any potential involvement, the level of that involvement, and any allegations of impropriety related to US Army detainee operations in Afghanistan, Iraq, and GTMO regarding MG Wojdakowski.

g. On 21 July 2004, the Inspections Division, DAIG, completed a "Detainee Operations Inspection" report that included Iraq. This report responded to the Acting Secretary of the Army's directive to conduct a functional analysis of the Army's conduct of detainee and interrogation operations to identify any capability shortfalls with respect to internment, enemy prisoner of war detention operations and interrogation procedures and to recommend appropriate resolutions or changes if required.

h. On 23 August 2004, the Kern Report was released. The Kern Report consisted of the classified Kern Report; an unclassified Executive Summary (EXSUM) of the Kern Report, and the two unclassified Jones and Fay reports.

i. On 24 August 2004, a DOD independent panel completed its Final Report of the Independent Panel to Review DOD Detention Operations. The DOD panel members provided independent professional advice on detainee abuses in the CENTCOM AOR, what caused them, and what actions should be taken to preclude their repetition. The panel reviewed various criminal investigations, and a number of command and other investigations. The Honorable James R. Schlesinger was the panel chairman. This assessment was commonly referred to as the Schlesinger Report.

j. The senior leader focus of this DAIG inquiry differed from that of the Taguba, Kern, Jones, Fay, and Schlesinger reports. Although there were instances where DAIG's conclusions differed from the Kern, Jones, Fay, and Schlesinger reports, the differences were attributed to DAIG having fewer time constraints and the opportunity to review additional evidence not available at the time these reports were finalized. In certain instances, the supporting evidence in the reports did not meet DAIG's preponderance of the evidence standard and DAIG was unable to reach the same conclusions. Differing findings in this DAIG inquiry and the cited reports should not be misinterpreted to mean that DAIG found the reports to be inaccurate. Each report must be considered in light of its focus, the evidence available at the time, the personal observations of the investigative team, and the documentation supporting the findings.

4. Operational Environment:

a. On 20 March 2003, coalition forces, which included V Corps, began combat operations to disarm Iraq of its weapons of mass destruction (WMD) and to remove the Iraqi regime from power. Military operations continued after the end of major combat operations on 1 May 2003. Initially, the Office of Reconstruction and Humanitarian Assistance (ORHA) was established under CFLCC (3d US Army) to help rebuild Iraq. ORHA was followed in May 2003 by the Coalition Provisional Authority (CPA), under the direction of Ambassador L. Paul Bremer, Presidential Envoy to Iraq, who reported to the Secretary of Defense (SECDEF). The establishment of the CPA marked a deliberate transition from military primacy and civil subordination, to the CPA with civilian lead and the military element in a supporting role.

b. US Army Forces, US Central Command (ARCENT), was previously designated as the CFLCC conducting operations in support of Operation Enduring Freedom (OEF) in Afghanistan, and was forward deployed in Kuwait. CFLCC also had responsibility for all coalition land combat forces in the Iraqi Theater of Operations (ITO). As a warfighting HQs, CFLCC prosecuted Phases I-III (thru major combat operations) of the CENTCOM Operations Plan (OPLAN) for the liberation of Iraq at the operational level of war. During OIF, the descending chain of command and corresponding lines of authority and responsibility were from CENTCOM to CFLCC to V Corps.

c. As a result of CFLCC's focus on campaigns in Afghanistan and Iraq over a two-year period, CENTCOM determined that CFLCC needed to return to its AOR-wide focus, and that a dedicated headquarters was required for Phase IV operations in Iraq. On 15 June 2003, V Corps transitioned into CJTF-7. At the direction of CENTCOM, CJTF-7 began Phase IV (Stability and Support Operations (SASO)) of the CENTCOM OPLAN.

d. CFLCC ceased to be a coalition warfighting HQs at the operational level of war in the ITO and ceased to be CJTF-Iraq, a role assumed three weeks prior. CFLCC reestablished its principal role as the Army Service Component Command (ASCC) of CENTCOM. As such, CFLCC became a strategic force provider while providing essential logistics, communications, engineer, and medical support to all deployed Services in the CENTCOM AOR. Elements of the CFLCC staff, some of whom had been in the AOR since June 2001, redeployed to Fort McPherson, GA. Other CFLCC staff members were assigned in support of CJTF-7.

e. CJTF-7 assumed CFLCC's roles, missions and responsibilities as the senior tactical and operational HQs in the ITO. CJTF-7 was also responsible to provide direct support to the CPA. MG Sanchez, the former CDR, 1st Armored Division (AD), was promoted to LTG, and assumed command of V Corps on 14 June 2003 and of CJTF-7 on 15 June 2003. LTG Sanchez transitioned from commanding approximately 15,000 Soldiers in a division to over 180,000 people in a coalition. In a short period, V Corps transitioned from a tactical warfighting Army component HQs to a multinational JTF whose missions and responsibilities extended across the entire spectrum of conflict and included joint, coalition and civilian agencies. Its support to the CPA added a strategic and Political/Military (POLMIL) dimension to its responsibilities.

f. A Joint Manning Document (JMD) was developed to delineate the specific skill sets of personnel needed to perform the increased roles and functions of the new HQs. After multiple reviews, the JMD was formally approved for 1400 personnel. The JMD included personnel needed to support the CPA, staff the functional elements needed to focus at the joint operational and strategic levels, and specifically augment areas such as intelligence, operations, and logistics. The V Corps staff transitioned to only 495 personnel within the new manning requirement. The new JMD also required that key staff positions be manned by general officers (GOs) rather than the normal colonel level positions on a Corps staff. The CJTF-7 staff began with a strength below 40% and achieved no more than a 60% fill through December 2003.

g. In July 2003, shortly after the stand-up of CJTF-7, LTG Sanchez and the Vice Chief of Staff, Army (VCSA) discussed the lack of intelligence capacity and GO manning in CJTF-7. The VCSA committed to providing additional GOs in support of CJTF-7.

h. During this time, CJTF-7 was in a direct support role to the CPA. CPA and CJTF-7 worked in concert in recognition that political and military operations in Iraq could not be separate and distinct from one another. The CPA had manning challenges similar to CJTF-7, and little capability outside of Baghdad. CENTCOM and CJTF-7, by both design and necessity, contributed military staff in support of CPA. There was a belief that a Corps, with augmentation, was capable of executing a JTF SASO in a permissive environment. This decision also anticipated a growth in Iraqi capabilities and institutions to assist in that effort.

i. Plans for Phase IV (SASO) anticipated a relatively permissive environment. In reality, following the conclusion of major combat operations in May 2003, the conflict transitioned to a terrorist/insurgency environment in August/September 2003. Coalition forces began capturing and interrogating larger numbers of alleged insurgents. AGP, re-opened initially by Ambassador Bremer as the only available facility to hold criminals pending restoration of the Iraqi national justice and corrections systems, was used to detain and interrogate insurgents and other persons of intelligence interest.

j. The unit with command responsibility for detention operations at AGP was the 800th Military Police (MP) BDE, a US Army Reserve (USAR) unit assigned to CFLCC to conduct internment/resettlement (I/R) operations in theater. The 800th MP BDE was commanded by BG Janis Karpinski, who assumed command on 29 June 2003, following the end of Phase III operations. On 15 June 2003, the 800th MP BDE was placed under the Tactical Control (TACON) of CJTF-7.

k. The unit with command responsibility for interrogation operations at AGP was the 205th MI BDE, commanded by COL Thomas M. Pappas since 1 July 2003. The 205th MI BDE was an assigned V Corps unit. COL Pappas, as the senior MI CDR in the ITO, was responsible for effectively employing intelligence assets in the accomplishment of assigned missions.

l. From approximately 5 October to 3 December 2003, a team of subject matter experts from GTMO, under the operational control (OPCON) of the 205th MI BDE, assisted in the implementation of the recommendations identified by the Miller Report. The GTMO Team included three interrogators and three analysts, organized into three teams, with one interrogator and one analyst on each, which was the GTMO "Tiger Team" concept. The GTMO Team was tasked with the mission of assisting the building of a robust and effective Joint Interrogation and Debriefing Center (JIDC), and identifying solutions and providing recommendations for the JIDC. This was a deliberate effort in support of the realization by Ambassador Bremer and LTG Sanchez that the CPA and CJTF-7 required a higher degree of operational intelligence in order to define and combat the growing insurgency.

m. From 7 to 21 October 2003, a five person Interrogation Support to Counterterrorism (ISCT) Mobile Training Team (MTT) from the US Army Intelligence Center conducted an overall assessment of interrogation operations, presented training, and provided advice and assistance at the AGP JIDC. This course was initially developed in response to requirements that surfaced during interrogation operations at GTMO, and specifically to prepare reserve interrogators and order of battle analysts for deployment to GTMO. This was an additional effort to strengthen intelligence gathering skills and effectiveness within the ITO.

n. In September and October 2003, CJTF-7 published Interrogation and Counter Resistance Policy (ICRP). This ICRP was prepared at the recommendation of subject matter experts who visited Iraq, and based on LTG Sanchez' awareness of various DOD policies for other theaters, his own awareness of the applicability of the Geneva Conventions (GCs) in the ITO, and his concerns over the variety of interrogator experience from other theaters. The policy was intended to clarify allowable approaches, ensure safeguards, and facilitate training and execution by CDRs.

o. As a GO, MG Wojdakowski executed responsibilities at the operational and strategic levels. As the Deputy CG, V Corps, MG Wojdakowski supervised nine separate (SEP) BDEs, and had no direct staff-supervision responsibilities. As the DCG, CJTF-7, MG Wojdakowski supervised 15 BDEs assigned, OPCON, or TACON to CJTF-7. These SEP BDEs included the 205th MI BDE and the 800th MP BDE. He was the rater for COL Pappas. Because CJTF-7's Chief of Staff (CofS) was assigned as full-time support to the CPA, MG Wojdakowski became the de facto CofS for the portion of the staff that remained at Camp Victory in Baghdad. As such, MG Wojdakowski was the rater for the C-2, MG Barbara Fast, and the C-3, MG Thomas Miller, as well as for the C-1, C-4, C-6, C-7, C-8, and C-9. He also supervised two Coalition deputy chiefs of staff, from the Australian Army and the Polish Army. Additionally, he supervised the Chaplain, CJTF-7, and the CDR, 3d Corps Support Command (COSCOM).

5. Allegation: MG Wojdakowski was derelict in the performance of his duties with respect to detention and interrogations operations.

a. The allegation was derived from information contained in the Kern, Jones, and Schlesinger Reports.

b. The Kern Report reflected that there was a lack of clear command and control of detainee operations at the CJTF-7 level, and there was neither a defined procedure nor specific responsibility within the CJTF-7 for dealing with International Committee of the Red Cross (ICRC) visits.

c. The Jones Report reflected that:

(1) The DCG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations.

(2) CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. Indications and warnings, such as the investigation of an incident at a detention facility at Camp Cropper, the ICRC reports on handling detainees, ICRC reports on detainee conditions at AGP, Criminal Investigations Command (CIC) investigations, the death of an Other Governmental Agency (OGA) detainee at AGP, and the lack of an adequate system for identification and accountability of detainees, surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in handling detainees from point of capture through the central collection facilities, to include AGP.

(3) CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff.

(4) The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership.

d. The Schlesinger Report reflected:

(1) MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

(2) MG Wojdakowski failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq. MG Wojdakowski and the staff should have seen that urgent demands were placed to HQs for additional assets.

(3) Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(4) LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the

C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP.

(5) If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the DCG, CJTF-7, could have set in motion the development of a more effective alternative course of action.

6. Synopsis:

a. Article 92 of the Uniform Code of Military Justice (UCMJ) stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

b. A review of the information relevant to this allegation revealed the following:

(1) MG Wojdakowski had duties with respect to detention and interrogation operations. As the DCG, CJTF-7, MG Wojdakowski supervised 15 SEP BDEs that were assigned, OPCON, or TACON to CJTF-7, which included the 205th MI BDE and 800th MP BDE. MG Wojdakowski resourced the detention and interrogation missions in terms of equipment, personnel, and contracting services. He was also the de facto CofS, and exercised staff supervision of interrogation and detention operations through the C-2 and C-3, respectively. MG Wojdakowski was the rater for COL Pappas, the C-2, and the C-3, and was responsible for supervising their duty performance. MG Wodjakowski's duties concerning detention and interrogation inherently included a responsibility to respond to identified shortcomings in these areas. The evidence established that MG Wojdakowski knew and accepted his duties and responsibilities regarding detention and interrogation operations, and he held a myriad of other duties as well.

(2) Testimony indicated MG Wojdakowski provided frequent guidance and mentoring to the CDRs of both the 205th MI BDE and 800th MP BDE. MG Wojdakowski testified that he met with all new BDE CDRs, to include COL Pappas and BG Karpinski, shortly after they took command, and counseled them. He gave COL Pappas guidance concerning his broad range of responsibilities as the senior MI CDR in the ITO, the need to develop a disciplined organization, and the need to closely supervise because of the BDE's high-risk operations. Additionally, MG Wojdakowski

regularly mentored BG Karpinski. He and LTG Sanchez met with her and the out-going CDR of the 800th MP BDE in June 2003, prior to her assumption of command. At that time, BG Karpinski indicated that she was the single CDR responsible for detention operations in the ITO. Later, MG Wojdakowski provided her substantial guidance on contracting, logistics, personnel, and force protection issues, and provided assistance within CJTF-7's authority and resourcing level while holding her responsible for matters within her control.

(3) MG Wojdakowski provided routine oversight of the SEP BDEs through a variety of mechanisms. He held thrice-weekly updates with the SEP BDE CDRs, which kept him abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Monthly Logistics Readiness Reviews (LRRs) were held in which all the SEP BDE CDRs provided him updates on their materiel readiness, resource, and life support issues. As CDRs planned and executed missions, MG Wojdakowski required that they rehearse and outline their plans to him.

(4) MG Wojdakowski held two detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the divisions, the 205th MI BDE, and the 800th MP BDE. The purpose of the summits was to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort. He visited AGP three times to observe ongoing construction projects, life support, and force protection efforts, and directed corrective action as necessary. He synchronized the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. While he was not personally involved in the execution of interrogation operations, he provided resources in terms of equipment, supplies, and contracting to the interrogation mission, and received regular updates from the C-2 and COL Pappas regarding intelligence operations. Liaisons from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Testimony indicated several CJTF-7 fragmentary orders (FRAGOs) were published that addressed detention operations and the treatment of detainees.

(5) When asked what additional oversight and corrective action should have been provided by MG Wojdakowski, LTG Jones and GEN Kern provided their opinion that, in the absence of a CofS, there should have been one person in charge of detention and interrogation facilities. However, several witnesses testified that a single POC was considered by LTG Sanchez as early as the fall of 2003, but, through no fault of CJTF-7's, the position did not materialize until MG G. Miller's arrival in March 2004 as the DCG, Detainee Operations. While LTG Sanchez' establishment of a single GO

responsible for both missions did not occur until January 2004 with the designation of the C-3 as the staff proponent, MG Wojdakowski was actively and appropriately involved in providing oversight of detention and interrogation operations until his departure in February 2004.

(6) Command included the authority and responsibility for effectively using available resources for the employment of military forces for the accomplishment of assigned missions. CDRs subdivided responsibility and authority and assigned portions of both to subordinate CDRs and staff members. The evidence established that command responsibility for detention and interrogation operations was executed through the CDRs of the 800th MP BDE and 205th MI BDE, respectively. As the de facto CofS, MG Wojdakowski was LTG Sanchez' principal assistant with executive management authority for directing and supervising the CJTF-7 staff. In accordance with Army doctrine, the C-2 was the principal staff officer responsible for MI operations; and the C-3, through the PM, was responsible for detention operations. The evidence established that staff oversight of detention and interrogation operations was appropriately executed through the C-3 and C-2, respectively.

(7) It was GEN Kern's opinion that MG Wojdakowski should have gone back to LTG Sanchez for a restated mission for CJTF-7, which may have identified a need for a new structure in which the MP BDE and MI BDE fell under the same command with a single person in charge. However, doctrine was silent as to who should have overall responsibility for detention operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. While the requirement for a GO in charge of both operations may have been desirable in hindsight, this approach was not doctrinal. CJTF-7 did not have the resources to create an additional GO position, and the JMD process could not support such a position in a timely manner. As such, the initial lack of such a position was not indicative of an impropriety on the part of MG Wojdakowski.

(8) LTG Sanchez designated the C-3 as the single POC on the staff overall responsible for all aspects of detention operations in January 2004. Shortly thereafter, CJTF-7 sent a request for detention operations specialists and a detention operations command cell to CENTCOM. By March 2004, MG G. Miller arrived and became the DCG solely responsible for detention and interrogation operations, with no additional assigned duties. By contrast, the evidence established that MG Wojdakowski had a myriad of duties in addition to oversight of detention and interrogation operations. While LTG Sanchez was focused on supporting and enabling the CPA mission, MG Wojdakowski was focused on the coalition's counter-insurgency fight, running the CJTF-7 staff, establishing the Logistics Capability for the ITO, and managing all the security and battle space associated with the ITO and the borders. From June 2003 to January 2004, MG Wojdakowski individually exercised a scope of responsibility that was eventually held by three GOs: DCG, CJTF-7; CofS; and DCG, Detainee

Operations. His ability to provide oversight of detention and interrogation operations was likely affected by this extremely broad scope of responsibility; however, the oversight he did provide was appropriate and doctrinal.

(9) As a two-star DCG of a combined joint task force, MG Wojdakowski properly exercised his responsibilities at the strategic level of leadership. He supervised subordinates at the COL through MG ranks. The senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. MG Wojdakowski expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, MG Wojdakowski, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP. Direct supervision of the MP Soldiers at AGP was the responsibility of the assigned MP BN CDR and his subordinate leaders. Direct supervision of the MI Soldiers at AGP was the responsibility of the JIDC Director and subordinate MI leaders. Leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The abuses were not attributable to a lack of oversight by MG Wojdakowski.

(10) The evidence established that MG Wojdakowski's ability to provide more oversight was hampered by the staff's lack of preparation and training as a CJTF; the low manning level and lack of joint experience on the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. Both testimony and reports revealed that CJTF-7 was never fully resourced in terms of personnel, both in numbers and grade-level. The CJTF-7 staff did not undergo a Battle Command Training Program (BCTP) normally afforded to new corps-level staffs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. CJTF-7's challenges were exacerbated by the slow fill and short personnel rotations at the CPA. As a result, a significant portion of the already under strength staff was devoted to assisting the CPA with the reconstruction of Iraq's infrastructure and internal security forces.

(11) The evidence established that MG Wojdakowski and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP. CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely

attacked. In addition, much of Iraq's infrastructure, such as water treatments plants, electrical plants, and government buildings were severely damaged and looted. As a direct result, Soldiers' and detainees' living conditions were austere throughout Iraq, to include at AGP. When AGP was declared an enduring base in October 2003, MG Wojdakowski directed that additional funds and engineering effort be applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. Testimony indicated that the 800th MP BDE received support in a manner not dissimilar to that of assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing or oversight by CJTF-7.

(12) The Reserve Component (RC) had no replacement system for individual losses, and the 800th MP BDE was eroded in personnel strength. The shortages were systemic RC issues, and not due to lack of oversight on the part of CJTF-7. Although the Ryder report identified that the 800th MP BDE was under strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining units to meet its mission requirements. In November 2003, MG Ryder told LTG Sanchez that BG Karpinski had not properly allocated her MP resources, but she could accomplish the mission with the force structure she had. Testimony indicated the bulk of the Army's MP assets were already in Iraq, additional MP companies were not available, and some replacement companies for the BDE would be non-MP, In Lieu Of (ILO) companies. Upon becoming aware of BG Karpinski's personnel concerns, multiple leaders, to include MG Wojdakowski, attempted to influence BG Karpinski to make internal unit redistribution of her own resources between detention facilities. MG Wojdakowski testified that BG Karpinski had reasonable concerns about her personnel strength, but he could not help her with replacements due to the lack of a replacement system for reservists and the lack of an Army stop loss policy at the time. He had a number of conversations with her about reallocating her Soldiers, but she was reluctant to move her units. He was aware that there were no active or reserve MP units remaining in the Army that were available for deployment to Iraq, and in December 2004, he moved MPs from the 1st AD to AGP to relieve some of the pressure. His actions were appropriate in light of the limited resources available.

(13) The evidence indicated that when force protection issues concerning AGP arose, MG Wojdakowski took appropriate action. MG Wojdakowski testified that the C-3 published several FRAGOs regarding force protection at AGP, to include FRAGO 1108 that designated COL Pappas as the FOB CDR responsible for the force protection and security of AGP. MG Wojdakowski and the C-3 were heavily involved in coordinating the force protection responsibilities of other units with respect to AGP. Although the Taguba Report indicated that FRAGO 1108 exacerbated an already ambiguous relationship between the 800th MP BDE and the 205th MI BDE, the CDRs at AGP understood their responsibilities under the FRAGO. In fact, by making COL Pappas the FOB CDR, FRAGO 1108 fixed responsibility for force protection at

AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO.

(14) The evidence indicated MG Wojdakowski was not made aware of abuse allegations within the November 2003 ICRC Working Paper that reflected allegations of detainee abuse. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible, and did not report them further to either MG Wojdakowski or LTG Sanchez. When made aware of elements of ICRC reports indicating resourcing issues for which he was responsible, MG Wojdakowski took appropriate action. On one occasion, he directed the purchase of jumpsuits and discussed quality of life issues raised by the ICRC with BG Karpinski. MG Wojdakowski testified the feedback he received indicated the ICRC was pleased with improvements being made to AGP.

(15) The evidence established that MG Wojdakowski took appropriate action with respect to developing courses of action and procedures for detention operations. In the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required, and recognized that expert assistance was needed. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These teams provided on-site training to units involved in the detention and interrogation mission, and provided examples of applicable standard operating procedures (SOPs) and policies. Furthermore, the 800th MP BDE was directed to move its HQs to Iraq in order to supervise more closely the detention mission for which it was responsible. MG Wojdakowski held regular detention summits in order to assess the on-going mission, during which issues were raised and corrective action was directed. The detainee population was tracked regularly, and as capacities were reached, MG Wojdakowski directed that detainees be cross-leveled. The detention mission was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. MG Wojdakowski's actions with respect to developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

(16) The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that MG Wojdakowski was not willfully derelict, negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations. On the contrary, the evidence established that MG Wojdakowski consistently took appropriate action at the strategic level of leadership

regarding the oversight, resourcing, and planning for both missions. While certain alternative actions, in hindsight, might have been more effective or beneficial, MG Wojdakowski's actions, in the context of the environment in which they occurred, were not culpably inefficient. Senior leaders interviewed, to include GEN Kern, indicated that MG Wojdakowski performed admirably given the challenges and resources with which he was faced, and that although he held himself accountable, he was not derelict. The austere environment, lack of staff, and growth of responsibilities all created obstacles that MG Wojdakowski successfully overcame through, by all accounts, heroic efforts. As such, his actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, MG Wojdakowski's efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

c. The preponderance of the evidence indicated that MG Wojdakowski was not derelict in the performance of his duties.

7. Conclusion: The allegation that MG Wojdakowski was derelict in the performance of his duties with respect to detention and interrogation operations was not substantiated.

8. Recommendations:

a. Record the allegation against MG Wojdakowski in the IN database as not substantiated.

b. File this report as DIG 04-80044 UPDATE.

(b)(6)-2 & (b)(7)(C)-2

(b)(6)-2 & (b)(7)(C)-2

SAIG-IN (20-1b)(DIG 04-80044) (UPDATE)

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| D-1 | (b)(7)(C) Dated 15 February 2004 | FOIA: No |
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| D-5 | (b)(7)(C) dated 21 October 2004 | FOIA: No |
| D-6 | (b)(7)(C) dated 22 October 2004 | FOIA: Yes |
| D-7 | (b)(7)(C) dated 22 October 2004 | FOIA: No |
| D-8 | (b)(7)(C) dated 26 October 2004 | FOIA: No |
| D-9 | (b)(7)(C) dated 27 October 2004 | FOIA: No |
| D-10 | (b)(7)(C), dated 29 October 2004 | FOIA: No |
| D-11 | (b)(7)(C) dated 9 November 2004 | FOIA: No |
| D-12 | GEN Kern, dated 24 November 2004 | FOIA: Yes |
| D-13 | (b)(7)(C) dated 29 October 2004 | FOIA: No |

Annex I

# TAB 2

1. AR 600-100, Army Leadership, dated 17 September 1993, stated:

a. In paragraph 1-6, each organizational level of the Army required a different mix of leadership skills. Leadership at the lower levels was direct, face-to-face, and relatively short term in its outlook. As leaders ascended the organizational ladder, leadership tasks became more complex. Senior leaders had responsibility for large organizations or systems. They exercised leadership indirectly through staffs and subordinate leaders. As leaders moved into the most complex and highest levels of the Army, or became involved in the strategic arena, the ability to conceptualize and integrate became increasingly important. Leaders at that level focused on establishing the fundamental conditions to fight wars or conduct operations other than war.

b. In paragraph 1-7, total Army leadership policy recognized three levels of leadership requirements: direct, senior and strategic. The direct level was the front-line or first level of leadership. It included leaders from the squad through battalion levels of tactical units. The senior level existed in more complex organizations, from the BDE through corps levels in tactical units. Senior leaders shaped organizational structure, directed operations of complex systems, and tailored resources to organizations and programs. The strategic level of leadership existed at the highest levels throughout the Army. It included leaders from the Field Army through national levels. Strategic leaders established structure, allocated resources, and articulated strategic vision. Skills required for effective leadership at this level included technical competence on force structure and integration, unified, joint, combined, and interagency operations, and management of complex systems.

c. In paragraph 2-1, all leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further supported Army policy and values. At the core of the responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. Leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline, cohesion, and motivation. (EXHIBIT C-1)

2. Field Manual (FM) 101-5, Staff Organizations and Operations, dated 31 May 1997, stated:

a. On page 1-1, command was the authority a CDR in military service lawfully exercised over subordinates by virtue of rank and assignment. Command included the authority and responsibility for effectively using available resources and for planning the employment of, organizing, directing, coordinating, and controlling military forces for the accomplishment of assigned missions.

b. On page 4-1, when the CDR assigned a staff member a mission, he also delegated authority for the staff member to accomplish the mission. Having delegated the authority, the CDR had to provide the staff member with the guidance, resources, and support necessary to accomplish the mission.

c. On page 4-2, the CofS was the CDR's principal assistant for directing, coordinating, supervising, and training the staff, except in the areas the CDR reserves. The CDR delegated executive management authority to the CofS.

d. On page 4-10, the G-2 was the principal staff officer for all matters concerning MI, counter-intelligence, security operations, and MI training. MI involved collecting, processing, producing, and disseminating intelligence.

[IO Note: The C-2 was the equivalent of the G-2 at the CJTF-level.]

e. On pages 4-12 through 4-14, the G-3 was the principal staff officer for all matters concerning training, operations and plans, and force development and modernization. The G-3 was responsible for staff planning and supervision of the PM. On page 4-27, the PM was the special staff officer responsible for coordinating MP assets and operations. The PM planned and supervised internment and resettlement operations, to include collection, detention and internment, protection, sustainment, and evacuation of enemy prisoners of war and civilian internees. (EXHIBIT C-2)

[IO Note: The C-3 was the equivalent of the G-3 at the CJTF-level.]

3. AR 600-20, Army Command Policy, dated 13 May 2002, stated:

a. In paragraph 2-1, the chain of command assisted CDRs at all levels to achieve their primary function of accomplishing the unit's assigned mission. CDRs were responsible for everything their command did or failed to do. However, CDRs subdivided responsibility and authority and assigned portions of both to various subordinate CDRs and staff members. In this way, a proper degree of responsibility became inherent in each command echelon. CDRs delegated sufficient authority to Soldiers in the chain of command to accomplish their assigned duties, and CDRs could hold these Soldiers responsible for their actions. The need for a CDR or staff officer to observe proper channels in issuing instructions or orders had to be recognized.

b. In paragraph 2-4, staff or technical channels could be used for sending reports, information, or instructions not involving variations from command policy and directives. (EXHIBIT C-3)

4. The Ryder Report, dated 5 November 2003, stated:

a. Coalition Forces were detaining enemy prisoners of war (EPWs) and civilian internees (both security and criminal detainees) in accordance with DOD Directives and accepted US and international practices. Generally, conditions in existing prisons, detention facilities and jails met minimal standards of health, sanitation, security, and human rights established by the GCs. There was "room for continued improvement" in all areas.

b. The major themes of the assessment were consolidation, separation, standardization, enable the CPA Ministry of Justice Prisons Department, and enable decentralized execution/initiative. The management of multiple disparate groups of detained persons in a single location by members of the same unit invited confusion about handling, processing, and treatment, and typically facilitated the transfer of information between different categories of detainees.

c. There was wide variance in standards and approaches at the various detention facilities. Several had flawed or insufficiently detailed use of force and other SOPs or policies (improper restraint techniques). "However, it should also be noted that the assessment team members did not identify any [MP] units purposely applying inappropriate confinement practices." There was a "significant paradigm shift" in standard EPW/detainee operations doctrine, as applied to post-hostilities detention of security internees, let alone the reconstruction of the Iraqi prison system.

d. Since the transfer of authority on 15 June 2003, between CFLCC and CJTF-7, the 800th MP BDE, a theater asset, was tasked to expand from its previous standard EPW operations, to add detention of security internees, high-value detainees, criminal detainees, and support the establishment of Iraqi jails and prisons throughout Iraq. The 800th MP BDE units were generally under-strength, since RC units did not have an individual replacement system to mitigate medical losses or the departure of Soldiers who reached 22 months of Federal active duty. The 800th MP BDE had a "clear and logical plan" to realign its remaining battalion and company-sized units to meet its mission requirements. (EXHIBIT C-4)

(b)(2)-3 & (b)(5)-1

[IO Note: The '(b)(6)-2 & (b)(7)(C)-2
(b)(6)-2 & (b)(7)(C)-2

(b)(5) & (b)(7)(C)-2 [redacted]

6. CJTF-7 FRAGO 1108, dated 19 November 2003, indicated that the CDR, 205th MI BDE, assumed responsibility for the Baghdad Central Confinement Facility (AGP) and was appointed as the Forward Operating Base (FOB) CDR. Units at AGP were TACON to the CDR, 205th MI BDE, for security of detainees and for force protection. (EXHIBIT C-6)

7. In a letter, dated 24 December 2003, subject: ICRC Visits to Camp Cropper and AGP in October 2003, BG Karpinski stated:

(b)(2)-3 & (b)(5)-1 [redacted]

(b)(2)-3 & (b)(2)-4

8. In a statement for the Taguba Report, dated 11 February 2004, COL Pappas stated:

a. He was interviewed by MG Taguba on 9 February 2004 concerning detainee operations and allegations of detainee abuse at AGP.

b. Command and control at the Abu Ghraib FOB was a "complex intermingling" of four distinct tasks under the command of the 205th MI BDE and the 800th MP BDE. The tasks included detention operations, operational and strategic interrogation operations, providing assistance to the Iraqi Bureau of Prisons, and enhancing force protection for the occupants of the FOB. The 320th MP BN was charged with executing detention operations. The SJA, CJTF-7, had the lead in facilitating ICRC visits. The JIDC, through the 205th MI BDE, was charged with executing interrogations.

[IO Note: The 320th MP BN was assigned to the 800th MP BDE, and was commanded by (b)(6)-2 & (b)(7)(C)-2 The director of the (b)(6)-2 & was (b)(6)-2 & (b)(7)(C)-2 who was assigned to AGP by the Deputy C-2, CJTF-7.]

c. The three basic components of detainee operations were detention, interrogation, and release. Staff supervision of these three functions was provided by the PM, the C-2, and the SJA, respectively. This split responsibility for detainee operations increased the pressure at lower levels and "blurred lines of responsibility."

d. The basic rules for interrogations were contained in FM 34-52, Interrogation Operations. The standards for conduct of interrogations were outlined in CJTF-7 policy memorandums.

e. Despite the articulation of clear rules, two instances of violations of these standards occurred and were brought to his attention prior to him assuming command of the FOB. He directed punitive action in one case, and removed the interrogator from interrogations in the second case. After these incidents, the leadership at the JIDC implemented a more aggressive policy of ensuring personnel understood the limitations of the interrogation process.

f. In the future, he recommended that if detainee operations were put under the purview of one CDR at AGP, that person should have training in detention operations, interrogation operations, and detainee release procedures. The level of responsibility probably necessitated a GO. (EXHIBIT C-8)

9. The Taguba Report, dated 26 February 2004, stated:

a. The CG, CJTF-7's request to investigate the 800th MP BDE followed the initiation of a criminal investigation by the US Army CIC (USCIC) into specific allegations of detainee abuse committed by members of the 372d MP Company, 320th MP BN.

b. CJTF-7 had several reports of detainee escapes from coalition confinement facilities over several months in 2003. These included Camp Bucca, Camp Ashraf, AGP, and the High Value Detainee (HVD) Complex/Camp Cropper. The 800th MP BDE operated these facilities. In addition, four Soldiers from the 320th MP BN were charged under the Uniform Code of Military Justice (UCMJ) with detainee abuse at Camp Bucca in May 2003.

c. A single CDR in CJTF-7 should be responsible for overall detainee operations throughout the ITO. The C-3, CJTF7, should be appointed as the staff proponent for detainee operations in the ITO.

d. There was a general lack of knowledge, implementation, and emphasis on basic legal, regulatory, doctrinal, and command requirements in the 800th MP BDE and its units.

e. The 800th MP BDE was under-strength for the mission for which it was tasked. BG Karpinski did a poor job allocating resources throughout Iraq. AGP normally housed between 6000 and 7000 detainees, yet was operated by one BN. On the other hand, the HVD facility maintained only 100 detainees, yet was also run by an entire BN. The 800th MP BDE suffered from personnel shortages due to releases from active duty (REFRADs), medical evacuation, and demobilization. In addition, the quality of life for the Soldiers was extremely poor. There were numerous mortar attacks and random rifle and rocket propelled grenade (RPG) attacks, which were a serious threat to Soldiers and detainees at the facility. AGP was severely over crowded, and the BDE lacked adequate resources and personnel to resolve serious logistics problems.

f. There was clear friction and lack of communication between COL Pappas and BG Karpinski. COL Pappas controlled the FOB at AGP after 19 November 2003, and BG Karpinski controlled detainee operations inside the prison. "There was no clear delineation of responsibility between commands, little coordination at the command level, and no integration of the two functions." Coordination occurred at the lowest levels with little oversight by the CDRs.

g. This ambiguous relationship was exacerbated by the CJTF-7 FRAGO 1108, placing the units at AGP TACON to the CDR, 205th MI BDE, for security of detainees and force protection. The FRAGO was not supported by BG Karpinski. The FRAGO effectively made an MI officer responsible for the MPs conducting detainee operations at the facility. This was not doctrinally sound.

h. BG Karpinski was emotional during her testimony with MG Taguba. She was unwilling to either understand or accept that many of the problems inherent in the 800th MP BDE were caused by poor leadership and the refusal of her command to establish and enforce basic standards and principles among its Soldiers. She alleged she received no help from the Civil Affairs command. She blamed much of the abuse at AGP on MI personnel, and stated that MI personnel gave the MPs "ideas" that led to detainee abuse.

i. BG Karpinski should be relieved from command and be given a general officer memorandum of reprimand (GOMOR) for failing to ensure that her Soldiers had appropriate standard operating procedures (SOPs) for dealing with detainees, and for failing to ensure that her Soldiers knew, understood, and adhered to the protections afforded by the GCs relative to the treatment of prisoners of war, among other reasons.

j. COL Pappas should be given a GOMOR and be investigated in accordance with AR 381-10 for failing to ensure his Soldiers were properly trained and followed the interrogation rules of engagement (IROE); failing to ensure his Soldiers knew, understood, and adhered to the protections afforded by the GCs relative to the treatment of prisoners of war; and for failing to properly supervise his Soldiers at AGP.

k. LTC Phillabaum should be relieved from command and be given a GOMOR for failing to properly supervise his Soldiers working at AGP and for failing to properly establish and enforce basic Soldier standards, proficiency, and accountability.

l. LTC Jordan should be relieved from duty and be given a GOMOR for failing to ensure Soldiers under his direct control were properly trained and followed the interrogation rules of engagement. (EXHIBIT C-9)

10. In a statement for the Fay Report, dated 5 May 2004, COL Pappas stated:

a. His rater was MG Wojdakowski, and his senior rater was LTG Sanchez. He provided an Officer Evaluation Report (OER) support form to MG Wojdakowski within the first one or two weeks of his command and they discussed the support form.

b. The 205th MI BDE had numerous intelligence collection activities ongoing in support of CJTF-7's mission. The BDE's focus was primarily on human intelligence (HUMINT). The BDE was also heavily involved in the Mujahadeen el Kalq (MeK) mission.

c. The BDE no longer had organic interrogation assets; however, they had three BNs task organized to the BDE that had interrogation capability.

d. AGP was a decrepit prison. There were significant force protection concerns and a lack of standards being enforced by the MP BN.

e. Interrogation operations were not as successful as LTG Sanchez hoped. The C-2 informed the 205th MI BDE that LTG Sanchez was not happy with the quality of the reporting.

f. He (COL Pappas) believed there was pressure from DOD to produce actionable intelligence from the security detainees that CJTF-7 was capturing. He based that assessment on the discussions he had with the C-2 staff and the "tremendous amount of interest" that they were receiving.

g. (b)(6)-4 & (b)(7)(C)-4 was the OIC of the JIDC and was his "guy on the ground" at AGP. (b)(6)-4 & (b)(7)(C)-4 was detailed to the BDE by the Deputy C-2, CJTF-7. Although technically the JIDC was a joint operation, its JMD remained unfilled throughout his (COL Pappas') tour in Iraq. The JIDC was essentially an Army-run operation. The decision was made to use civilians as interrogators because the BDE had no more assets to fill the slots. His S-3 and Deputy CDR worked with CJTF-7 HQs in developing the specific requirements for civilian interrogators.

h. In November 2003, LTG Sanchez visited AGP and was not happy with the operations. He (COL Pappas) decided to move to AGP. Shortly thereafter, he was named as the CDR of the AGP FOB, and became responsible for force protection. This meant he was responsible for protecting all personnel from external threats. It meant that the MPs would continue to run confinement and security operations, while the JIDC continued to perform interrogations. The 19 November 2003 FRAGO did nothing to alter the mission of the MPs to maintain control of the detention facilities at AGP. As a result of the 19 November 2003 FRAGO, he became more involved with base operations at AGP.

i. The ICRC visited AGP twice. He received a copy of the report of their visit, and noted the allegations of mistreatment of detainees and detainees wearing women's underwear on their heads. He did not believe the allegations. He thought some of the detainees wanted to get sympathy. He truly believed his Soldiers were not involved.

j. A more rigid inspection of operations, less confidence in civilians working interrogations, and closer attention to the ICRC Working Paper's report of abuse may have enabled earlier detection of the abuse. The difficult conditions at AGP, the lack of established doctrine and training for JIDCs, as well as the Army's decision to move interrogators into the RC after Operation Desert Storm were contributory factors. (EXHIBIT C-10)

[IO Note: On 3 December 2004, COL Pappas declined to answer questions for this inquiry.]

11. In a sworn statement for the Kern Report, dated 17 May 2004, MG Wojdakowski stated:

a. In July 2003, he directed the CG, 800th MP BDE, to move the HQs from Kuwait to Iraq so that the CG, CJTF-7, and CJTF-7 staff could better supervise the BDE and build the BDE into the CJTF-7 team. Since the 800th MP BDE was TACON to CJTF-7, CJTF-7's degree of oversight of the BDE was command authority over forces available for tasking, limited to the detailed and local direction and control of movements necessary to accomplish assigned missions.

b. He kept abreast of all the SEP BDEs in CJTF-7 by holding a Tactical Satellite (TACSAT) update three days per week.

c. As the DCG, CJTF-7, he was responsible for overseeing logistical support for all facilities in Iraq, and he dealt with AGP extensively in that capacity. Since AGP was a key facility, CJTF-7 allocated a lot of resources to the site. BG Karpinski always came to him when she needed support. To assist her, he directed that she work through the C-4, CJTF-7, and the rest of the staff to get the resources she needed. The staff worked through a host of issues with supporting AGP and other facilities.

d. CJTF-7 needed a central facility to hold and screen detainees. In addition, CJTF-7 needed to consolidate its scarce detainee operations resources. Consolidating detainee operations at AGP helped them focus resources on that facility and FOB. Some resources were pulled from other detention camps to support AGP.

e. LTG Sanchez was concerned and had great expectations on interrogation operations, and he (MG Wojdakowski) and the staff all participated in improving this part of the intelligence process. LTG Sanchez gave explicit instructions to treat all detainees humanely.

f. They were aware they had challenges with the detainee system, and CJTF-7 requested assistance from various places through CENTCOM and the Army. They requested more interrogators, interpreters, and HUMINT support.

g. COL Pappas never came to him (MG Wojdakowski) and told him he (COL Pappas) could not do his job due to personnel shortages, but they continuously worked on using personnel in the best possible way. BG Karpinski did complain to him about personnel shortages, and they redistributed personnel within CJTF-7 to address her concerns.

h. No one in the CJTF-7 Command Group condoned or encouraged the mistreatment of detainees. The Command Group quickly and forcefully investigated any and all suspected violations of detainees' rights. (EXHIBIT C-11)

12. The DAIG Inspections Report, dated 21 July 2004, stated:

a. On 10 February 2004, the Acting SECARMY directed DAIG to conduct an assessment of detainee operations in Afghanistan and Iraq. DAIG inspected internment, EPW, detention operations, and interrogation procedures. The inspection focused on the adequacy of doctrine, organization, training, materiel, leadership, personnel, and facilities. It was a functional analysis of the Army's conduct of detainee and interrogation operations.

b. Two teams conducted inspections at 26 locations in Iraq, Afghanistan, and in the US. They were unable to identify system failures that resulted in incidents of abuse. These incidents resulted from the failure of individuals to follow known standards of discipline and Army values, and in some cases, the failure of a few leaders to enforce those standards of discipline.

c. Of all the facilities inspected, only AGP was determined to be undesirable for housing detainees because it was located near a densely populated urban area, on a dangerous main supply route (MSR), and was under frequent hostile fire, placing Soldiers and detainees at risk.

d. Doctrine did not clearly identify the interdependent, and yet independent, roles, missions, and responsibilities of MP and MI units in the establishment and operation of interrogation facilities. MP doctrine did not address approved and prohibited MI procedures in an MP-operated compound, nor clearly establish the role of MPs in the interrogation process. MI doctrine did not clearly explain MP internment procedures or the role of MI personnel within an internment setting. Contrary to MP doctrine, FM 35-52, Intelligence Interrogation, dated 28 September 1992, implied an active role for MPs in the interrogation process. The subordination of the MP custody and control mission to the MI for intelligence could create settings in which unsanctioned behavior, including detainee abuse, could occur.

e. Shortfalls in interrogators and interpreters, and the distribution of these assets, hampered HUMINT collection efforts. Valuable intelligence may have been lost as a result.

f. They were unable to identify system failures that resulted in incidents of abuse. (EXHIBIT C-12)

13. The Kern Report stated:

a. Iraq became a HUMINT-focused environment in support of SASO with interrogation operations becoming increasingly critical. Beginning in July 2003, demands placed on interrogation operations were growing rapidly. The 205th MI BDE was responsible for providing tactical HUMINT teams to forward-deployed combat forces, as well as operating a JIDC. (p. 32)

b. The 205th MI BDE had no organic interrogation capability. The BDE received interrogation sections from many different units across the Army and USAR. As COL Pappas focused his efforts on interrogation operations, all he had were disparate elements of units and individuals, to include civilians that had never trained together. In contrast, the ISG interrogation operations of HVDs had no such shortages. These much needed resources were unavailable for support of critical CJTF-7 mission needs. (p. 32)

c. The CPA made the initial decision to use AGP as a criminal detention facility in May 2003. (p. 33)

d. Overcrowding at AGP was exacerbated by the transfer of detainees from Camp Bucca to AGP. The physical plant was inadequate in size and the construction and renovations that were underway were incomplete. Scarcity of resources, both personnel and equipment, to conduct effective confinement or interrogation operations made the situation worse. (p. 37)

e. Force protection was a major issue at AGP. BG Karpinski recognized AGP's vulnerabilities and raised these concerns frequently to MG Wojdakowski and LTG Sanchez. LTG Sanchez was equally concerned about AGP's vulnerabilities and the lack of progress in establishing "even rudimentary" force protection measures. He directed the CG, 82d Airborne Division, to meet with AGP officers concerning their issues. In an effort to improve force protection, LTG Sanchez appointed COL Pappas as the FOB CDR. COL Pappas devoted "considerable energy" to improving security. (p. 38)

f. On 16 November 2003, COL Pappas took up full time residence at AGP. FRAGO 1108 was pointed to and looked upon by many as a significant change and was a "major factor" in allowing the abuses to occur. It was not. "The abuses and the environment for them began long before FRAGO 1108 was ever issued." "TACON" was interpreted to mean that COL Pappas took over the running of the prison, but COL Pappas never took over those functions. MG Wojdakowski, COL Pappas' rater, stated that COL Pappas was never given responsibility for running the prison, but that the MPs retained that responsibility. It appeared that BG Karpinski was the only person among the Army leadership involved who interpreted the FRAGO differently. (pp. 55- 56)

g. The ICRC's allegations of abuse at AGP were not believed, nor were they adequately investigated. During their visits to AGP in October 2003, the ICRC noted some detainees were held naked in their cells, with only Meals, Ready-To-Eat (MRE) packaging being used to cover their nudity. Some detainees alleged to the ICRC that they were subject to sleep deprivation; were forced to walk the corridors handcuffed and naked, wearing female underwear on their head, etc. In November 2003, the Office of the Staff Judge Advocate (OSJA), CJTF-7, received a report from the ICRC regarding these visits. An Australian attorney from the OSJA was sent to AGP to help draft a response. BG Karpinski signed the response letter to the ICRC on 24 December 2003. (pp. 64-66)

h. The letter tended to "gloss over, close to the point of denying the inhumane treatment, humiliation, and abuse identified by the ICRC." COL Marc Warren, SJA, CJTF-7, stated when he saw the ICRC Working Paper, "he couldn't believe it." COL Warren regretted not taking the ICRC Working Paper to LTG Sanchez or MG Wojdakowski. (pp. 67-68)

i. The physical and sexual abuses of detainees at AGP were the most serious of the abuses. The abuses spanned from direct physical assault to sexual abuses. Such abuse could not be directly tied to a systemic US approach to torture or approved treatment of detainees. The climate created at AGP provided the opportunity for such abuse to occur and to continue undiscovered by higher authority for a long period of time. What started as undressing and humiliation, stress and physical training, carried over into sexual and physical assaults by a small group of morally corrupt and unsupervised Soldiers and civilians. Twenty-four serious incidents of physical and sexual abuse occurred from 20 September through 13 December 2003. A total of 44 abuse incidents, to include non-violent and non-sexual abuse, were detailed in the report. The report found that the abuses were committed by enlisted MI and MP Soldiers and civilian contractors, and that several officers, NCOs, and Soldiers either failed to properly supervise and train their subordinates, or failed to properly report abuse when made aware of such incidents. (pp. 7, 71, 120-135)

j. There was a lack of clear command and control of detainee operations at the CJTF-7 level. Although MG Wojdakowski was COL Pappas' rater, MG Wojdakowski was not directly involved with interrogation operations. Most of COL Pappas' direction came from LTG Sanchez and MG Fast, C-2, CJTF-7. BG Karpinski was rated by the CG, 377th TSC. She testified that she believed her rater was MG Wojdakowski, and she received her direction from him the entire time she was in Iraq. Overall responsibility for detention operations never came together under one person short of LTG Sanchez himself until the assignment of MG G. Miller in April 2004. There should be a single authority designated for command and control of interrogation and detention operations in CJTF-7. (pp. 109-110)

[IO Note: MG G. Miller's assignment to CJTF-7 was as the DCG for Detainee Operations. He was assigned to CJTF-7 in March 2004, and assumed duties as the DCG, Detainee Operations, In April 2004.]

k. Leaders failed to take steps to effectively manage pressure placed upon the JIDC personnel. Leaders within the MI community commented on the intense pressure they felt from higher HQs, to include CENTCOM and the Pentagon, for timelier intelligence. These leaders indicated that this pressure adversely affected their decision making. (pp. 111-112)

l. There was neither a defined procedure nor specific responsibility within CJTF-7 for dealing with ICRC visits. ICRC recommendations were ignored by MI, MP, and CJTF-7 personnel. Neither the leadership (at AGP) nor CJTF-7 made any attempt to verify the ICRC's allegations. (p. 119)

m. COL Pappas failed to properly communicate to higher HQs when his BDE would be unable to accomplish its mission due to lack of manpower and resources. He allowed his Soldiers and civilians at the JIDC to be subjected to inordinate pressure from higher HQs. (p. 120) (EXHIBIT C-13)

14. The Jones Report stated:

a. From the time V Corps transitioned to become CJTF-7, and throughout the period under investigation, it was not resourced properly to accomplish its missions. CJTF-7 HQs lacked adequate personnel and equipment. The MP and MI units at AGP were severely under-resourced. CJTF-7's support to the CPA required greater resources than envisioned in operational plans. Prior operational plans envisioned CJTF-7 conducting SASO and providing support to the CPA in a relatively benign environment. "In fact, opposition was robust and hostilities continued throughout the period under investigation. CJTF-7 had to conduct tactical counter-insurgency operations while executing its planned missions. These circumstances delayed establishment of an intelligence architecture and degraded the ability of the CJTF-7 to execute its assigned tasks, to include oversight of interrogation and detention operations at AGP. (pp. 3-4)

b. The chain of command immediately above the 205th MI BDE was not directly involved in the abuses at AGP. The DCG, CJTF-7, failed to ensure proper staff oversight of detention and interrogation operations. CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. Warnings and indications included: the investigation of an incident at the detention facility at Camp Cropper, the ICRC reports on AGP detainee conditions and treatment, CID investigations, the lack of an adequate system for the identification and accountability of detainees, etc. (pp. 4, 12)

c. CJTF-7 command and staff actions and inaction must be understood in the context of the operational environment. In light of the operational environment and the fact that the CJTF-7 staff and units were under-resourced for their missions, the CDR, CJTF-7 had to prioritize efforts. As such, CJTF-7 devoted its resources to fighting the counter-insurgency and supporting the CPA, "thereby saving Coalition and Iraqi lives and assisting in the transition to Iraqi self-rule." The CG, CJTF-7, and his staff performed above expectations in the overall scheme of OIF. (p. 5)

d. Leaders at AGP failed to supervise their units or provide direct oversight of the interrogation mission. The absence of effective leadership was a factor in not sooner discovering and taking action to prevent the abuse incidents. (p. 5)

e. The TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff, lower priority for resources needed for detention operations, and a lack of intrusive, aggressive oversight by the CJTF-7 leadership. No attempt was made by CJTF-7 or ARCENT to change this relationship. (p. 9)

f. As major counter-insurgency operations began in July 2003, the demands on the CDR, CJTF-7 and his staff; the CPA; subordinate units, and the Iraqi interim government increased dramatically. Decisions were made to keep some units in Iraq to continue fighting the insurgency. Pressure increased to obtain operational intelligence. The complexity of missions conducted by CJTF-7 increased and placed a high demand on leadership at all levels. A rapid increase in the number of detainees due to the apprehension of counter-insurgents (sic) demanded a decision on a detention facility and a need to rapidly expand interrogation operations. (pp. 9-10)

g. The effort to expand the intelligence organization, obtain operational intelligence about the counter-insurgency, and support the CPA "consumed" the CJTF-7 staff. Responsibilities for oversight of tactical interrogation procedures, intelligence analysis, and reporting at AGP were entrusted to CDRs in the field. (p. 11)

h. Assistance was requested by CJTF-7 to help inform the leadership on proper procedures, techniques, and changes needed for success. (p. 12)

[IO Note: The CJTF-7 requests for assistance resulted in the visits by MG G. Miller, MG Ryder, and other assistance teams.]

i. In retrospect, indications and warnings surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in handling detainees from point of capture through the central collection facilities, to include AGP. (p. 12)

j. It needed to be emphasized that the 180,000 US and coalition forces in CJTF-7 were prosecuting a complex counter-insurgency operation in a "tremendously horrid environment", and were performing above all expectations. Leaders and Soldiers confronted "a faceless enemy whose hatred of the US knew no limits." The actions of a few undisciplined Soldiers at AGP overshadowed the selfless service demonstrated every day by the vast majority of the Soldiers on the battlefield. The Nation owed a debt of gratitude to the Service Members who served in harm's way every day. (p. 12)

k. CJTF-7 responsibility for staff oversight of detention operations, facilities, intelligence analysis and fusion, and the limits of authority on interrogation techniques was dispersed among the CJTF-7 staff. Staff responsibility for detention operations was vested in the C-3, CJTF-7, with further delegation to the PM. MG Wojdakowski established priorities of work for the C-4 and logistics support for facilities. He had direct oversight and responsibility for the SEP BDEs assigned or TACON to CJTF-7. Priorities for intelligence collection, analysis, and fusion rested with the C-2. LTG Sanchez used his SJA to advise him on the limits of authority and compliance with the GCs for the published interrogation policy memorandums. The lack of one person on the staff to oversee detention operations and facilities complicated the coordination among the staff. (p. 14)

l. No organization or individual higher than the 205th MI BDE was directly involved in the questionable activities regarding the alleged detainee abuse at AGP. However, CJTF-7 leaders and staff actions contributed indirectly to the questionable activities. (p. 16)

m. Misinterpretation of CJTF-7 policy memorandums led to some of the abuses at AGP, but did not contribute to the violent or sexual abuses. (p. 16)

n. Inaction at the CJTF-7 staff level may have also contributed to the failure to discover and prevent abuses before January 2004. There was sufficient evidence to believe that personnel in the OSJA and C-2X had knowledge of potential abuses and misconduct in violation of the GCs at AGP, and this knowledge was not presented to the CJTF-7 leadership. Had the pace of combat operations and support to the CPA not been so overwhelming, the CJTF-7 staff may have been able to provide additional oversight to interrogation operations at AGP. LTG Sanchez and MG Wojdakowski relied on BG Karpinski and COL Pappas to run detention and interrogation operations at AGP. In light of all the circumstances, the CJTF-7 staff did everything they could have reasonably been expected to do to successfully complete all their assigned missions. (p. 17)

o. The leaders from the 205th MI BDE and 800th MP BDE at AGP failed to supervise their subordinates, failed to provide mission-specific training to their Soldiers; and failed to properly discipline their Soldiers. (p. 17)

p. COL Pappas did not specifically assign responsibility for interrogation operations to a subordinate MI unit at AGP, and did not ensure that a chain of command for the interrogation operations mission was established at AGP. (p. 17)

q. V Corps personnel, to include CDRs and staff, were not trained to execute a JTF mission. The transition from major combat operations to SASO and support to the CPA was a major transition for which the unit did not have time to train or prepare. (p. 22)

r. The conditions at AGP were representative of the conditions found throughout Iraq during post-Phase III operations. (p. 23) (EXHIBIT C-14)

15. The Schlesinger Report stated:

a. The events of October 2003 through December 2003 on the night shift of Tier 1 at AGP were acts of brutality and "purposeless sadism." They represented deviant behavior and a failure of military leadership and discipline. There was no evidence of a policy of abuse promulgated by senior officials or military authorities. There was both institutional and personal responsibility at higher levels. (p. 5)

b. There was a failure to plan for a major insurgency in Iraq, and a failure to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan assumed relatively benign SASO would precede the handover to Iraqi authorities. (p. 11)

c. Of the 17 detention facilities in Iraq, the largest was AGP which housed up to 7,000 detainees in October 2003 with a guard force of about 90 personnel from the 800th MP BDE. AGP was seriously overcrowded, under-resourced, and under continual attack. (p. 11)

d. The 205th MI BDE had insufficient interrogator and interpreter resources to provide the kind of support needed by CJTF-7. Additional units were mobilized to fill the gaps. Unit cohesion was lacking because elements of six different units were assigned to the interrogation mission at AGP. The problems were heightened by friction between MI and MP personnel, to include the BDE CDRs. (p. 12)

e. The DCG, CJTF-7, failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq. MG Wojdakowski and the staff should have seen that urgent demands were placed to higher HQs for additional assets. MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. (p. 15)

f. The 800th MP BDE was among the lowest in priority for deployment and did not have the capability to overcome the shortfalls it confronted. (p. 12)

g. Commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. CDRs were responsible for all their units did or failed to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. The Panel found no evidence that organizations above the 800th MP BDE or 205th MI BDE were directly involved in the incidents at AGP. (p. 43)

h. LTG Sanchez delegated responsibility for detention operations to MG Wojdakowski. Intelligence personnel at AGP reported through the C-2. These arrangements had the damaging result that no single individual was responsible for overseeing operations at AGP. (p. 45)

i. Once it became clear in July 2003 that a major insurgency was growing in Iraq, senior leaders should have adjusted the plan from SASO. If CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders who could have set in motion the development of a more effective alternative course of action included the DCG, CJTF-7. (p. 47)

j. By October-November 2003, CDRs and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff (JCS) knew the serious deficiencies of the 800th MP BDE, and should have at least considered reinforcing the troops for detention operations. (p. 48)

k. The 800th MP BDE was totally dependent on higher HQs to initiate actions to relieve the personnel crisis. BG Karpinski emphasized personnel shortfalls in personal communications with CJTF-7 CDRs and staff as opposed to CFLCC. The response from LTG Sanchez and MG Wojdakowski was that the 800th MP BDE had sufficient personnel to accomplish its mission, and that the BDE needed to reallocate its resources among the other detention facilities. CJTF-7's, CFLCC's, and CENTCOM's failure to request additional forces was an avoidable error. (p. 49)

l. CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7, and CENTCOM took too long to finalize the JMD. (p. 49)

m. CJTF-7 could have requested a change in command relationships, placing the 800th MP BDE OPCON rather than TACON to CJTF-7. This would have permitted the CG, CJTF-7, to reallocate assets under his control to the detention mission. Non-MP units could have been reassigned to help with detention operations. Additionally, CENTCOM could have assigned other Service's MP and security units to CJTF-7 for the detention operations mission. Mobilization and deployment of additional forces from the US was also a feasible option. (p. 50)

n. Earlier, CJTF-7 had submitted a Request for Forces (RFF) for an additional Judge Advocate organization, but CENTCOM would not forward it to the JCS. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there was no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units. (p. 50-51)

o. It was the responsibility of the combatant CDR to organize his forces in a manner to achieve mission success. Combatant CDRs and their subordinates needed to organize in a manner that afforded unity of command, ensuring that CDRs worked for CDRs and not staff. The fact that detention operations in Iraq were later commanded by a MG who reported directly to the operational CDR , and that 1900 MPs performed the detention mission formerly assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led BDE, indicated that more robust options should have been considered sooner. (p. 51) (EXHIBIT C-15)

[IO Note: The combatant CDR for the ITO was the CG, CENTCOM.]

# TAB 3

1. On 15 February 2004, BG Karpinski testified to MG Taguba:

a. She got a transfer of authority (TOA) order that directed the move of the 800th MP BDE to Baghdad to be responsible for confinement and corrections operations in Iraq. AGP was selected as an interim site, for not more than three years. BG Paul Hill directed the 320th MP BN move to AGP before she took command. (p. 19)

[IO Note: BG Hill was the previous CDR of the 800th MP BDE.]

b. On 9 September 2003, she was shown a list that was 2 ½ pages long of 800th MP BDE Soldiers that had been removed from theater for medical reasons. (p. 25)

c. After one of MG Wojdakowski's visits to AGP, he directed that AGP become an enduring camp. MG Wojdakowski told the CJTF-7 Engineer, C-3, and C-4 that they had not been able to provide AGP with support because the 800th MP BDE was TACON to CJTF-7, but making AGP an enduring base would "open the doors." (p. 13)

d. In November 2003, COL Pappas got a FRAGO directing that all tenant units at AGP were TACON to him for security of detainees and force protection. She was not informed of the FRAGO before it was issued. She saw MG Fast about the order. She told her it was done, no discussion required. (pp. 10-11)

e. When she told MG Wojdakowski that she did not have the MP resources to cover 15 detention facilities, he told her to "figure it out." (p. 38)

f. There were several incidents at AGP, to include escapes, accidental firearms discharge, etc. The BN CDR looked like he was overwhelmed, so she directed he leave AGP for a few days. The Soldiers at AGP were troubled because of the death of one of their members, the level of activity going on, the expansion of the facility, the extension of their tours, the sharing of the facility with other Soldiers, and that every "bad mission" was coming to them. She temporarily put another BN CDR in for LTC Phillabaum. At the time, LTC Phillabaum did not have an executive officer (XO) or a command sergeant major (CSM). She checked with the 377th TSC and CJTF-7 for replacements for her deputy CDR and CSM. She could not get help. (pp. 40-42, 44)

g. When AGP reached full capacity, the PM's and MG Wojdakowski's solution was to put up more tents at Camp Bucca. That was not consistent with treating prisoners with dignity and respect. (pp. 80-81)

h. She told MG Wojdakowski, MG Fast, and the PM on numerous occasions that they had to treat prisoners IAW certain rules. The standard response was that "these are prisoners" and did not deserve any better treatment than Soldiers. (pp. 81-82)

i. The ICRC Working Paper of their October 2003 visit to AGP stated that detainees in one of the facilities were being stripped of their clothing and made to wear women's underwear. She talked to COL Warren and COL Pappas at CJTF-7 HQs about the report and it was a big joke. They did not believe the report. She brought the report to MG Wojdakowski's attention, and told him that COL Pappas would prepare the response to the ICRC. MG Wojdakowski's guidance to her was to "see what the ICRC response is." (pp. 84-86)

[IO Note: BG Karpinski's testimony did not indicate what aspects of the ICRC Working Paper she brought to MG Wojdakowski's attention, nor did she indicate whether she showed him the report. BG Karpinski declined to be interviewed by DAIG.

(b)(7)(D)

j. The CJTF-7 did not want to be bothered by her or force protection for AGP. They blew her off because she was a Reservist, she was TACON, and "a lot of other reasons." LTG Sanchez did not care until the MI Soldiers were killed at AGP. When the prisoners were killed, MG Wojdakowski told her "but they're prisoners, Janis. Did you lose any Soldiers?" (p. 123) (EXHIBIT D-1)

2. On 18 July 2004, BG Karpinski testified to MG Fay:

a. There were losses in the 800th MP BDE for primarily medical reasons. Some of the BNs were down to 76%-78%. None were higher than 80% strength. There were no replacements. They could not even get MP companies transferred from Kuwait to the 800th MP BDE. (pp. 24-25)

b. It was a conscious decision by the CG, CFLCC, to keep the 800th MP BDE OPCON to CFLCC. He was concerned that CJTF-7 would break up the BDE to supplement other missions besides detention. (p. 26)

c. It was her opinion that LTG Sanchez and MG Wojdakowski wanted her to keep a BN at the HVD detention facility and to run the Corps holding area. (p. 38)

d. She had conversations with MG Wojdakowski about every other night. She talked to him about force protection. They had no "force protection platforms" at AGP and the Soldiers were becoming concerned. She told him they were not getting support from him. She appreciated the funds he provided to help rebuild the compound, but she needed more funds for equipment, water, and food. He told her he was "looking at it." (pp. 68-70)

e. When six prisoners were killed by a mortar attack on 17 August 2003, she immediately called MG Wojdakowski and told him she had no force protection other than a few High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs). They had only one .50 caliber weapon that they borrowed from the Marines. The next day CJTF-7 sent out two Bradley fighting vehicles, which manned the entry control point. Once the press left, the Bradleys left and did not come back. About two weeks later, another mortar attack killed some MI Soldiers. (pp. 70-71)

f. Neither she nor her staff read the 19 November 2003 FRAGO when it first came out. Both she and COL Pappas had questions about the TACON relationship. It was COL Pappas' understanding that he had "operational control-tactical control" of the prison. That meant he could define the Soldiers' work assignments or use them for force protection. He could not change their work and make them truck drivers. If he thought they needed more MPs out in the prison compound, he could go to LTC Phillabaum and talk to him about it. (p. 146, 150-151)

g. She told MG Wojdakowski that she was scheduled to brief LTG Sanchez on the timeline for restoring the prisons, and that she would mention to him that her number one concern was force protection at AGP. She almost pleaded with MG Wojdakowski to get more force protection platforms. (p. 155)

h. When AGP was declared an enduring camp, MG Wojdakowski told her that the reason CJTF-7 had not been able to give them any resources was because the 800th MP BDE was not OPCON to CJTF-7. (p. 162)

i. In November 2003, the Deputy Commanding Officer, 205th MI BDE, told her about the ICRC visit. She told her (BG Karpinski) that the ICRC observed naked detainees, and that one detainee told a story about being made to wear women's underwear on his head. (p. 181)

j. She asked MG Wojdakowski for a COL to run AGP as the FOB CDR, because that person would have to work with COL Pappas, but MG Wojdakowski told her he didn't have anyone to give her. (p. 150) (EXHIBIT D-2)

3. On 13 September 2004, MG Fay testified to DAIG:

a. There was real confusion as to who was in charge of detention and interrogation operations. There was no one person in charge. It was a shared responsibility among CDRs and staff. MG Wojdakowski had some responsibilities because he supervised both BG Karpinski and COL Pappas. He was more involved with the detention side rather than the interrogations side, and relied heavily on COL Pappas for interrogation operations. MG Wojdakowski was mostly involved with handling the "huge numbers" of logistics issues facing CJTF-7. (pp. 3-4)

b. Other persons involved were the PM, the C-2, and the SJA. Additionally, MG T. Miller was designated as responsible for detention operations by LTG Sanchez in February 2004. Doctrine was silent as to who had overall responsibility for detention operations. As such, CJTF-7 did not violate Army doctrine by not having a single person in charge of detention and interrogation operations. (p. 4-5)

[IO Note: Other testimony indicated that LTG Sanchez designated MG T. Miller as the single staff POC for detention and interrogation operations in January 2004. Until June 2004, no joint doctrine existed for detainee operations. On 27 July 2004, the Joint Staff directed that the Army would be the lead agent for the development of joint doctrine for detainee operations.]

c. It was not fair to place all the burden on LTG Sanchez for not recognizing there were problems at AGP. As a country, we under-resourced CJTF-7 and under-appreciated what we would face in Iraq. We were optimistic on the amount of resistance we would face. We did not react fast enough to the insurgency. We should have been more pessimistic in our initial plan. This was an under-resourced operation that changed quickly from a combat operation to an insurgency, and they were left with a force that was not put together to fight an insurgency. It was not negligence. (p. 6)

d. Most of BG Karpinski's dealings at CJTF-7 were with MG Wojdakowski, rather than with the PM or C-3. (p. 7)

e. Leaders at the 205th MI BDE level and below failed to effectively manage pressure on JIDC personnel. It was not the job of LTG Sanchez or MG Wojdakowski to protect Soldiers in the JIDC from that pressure. (pp. 7-8)

f. The ICRC Working Paper was ignored by personnel in CJTF-7 SJA, 205th MI BDE, and 800th MP BDE because they found the allegations to be unbelievable. It was a known issue at AGP that clothing for the prisoners was hard to obtain; therefore it was unbelievable that prisoners were wearing women's underwear when the prison couldn't even get regular clothes. It turned out the allegations were true. (pp. 10-11)

g. Regarding the manning of the JIDC, COL Pappas should have asked for a unit to perform that mission. Instead, he used personnel provided to him from all over the Army. A more effective method would have been for him to turn to one of his BNs and give them the mission. Additional organizations like a JIDC should not be created if we have to "pay for them out of hide." (pp. 23-24) (EXHIBIT D-3)

4. On 14 October 2004, LTG Jones testified to DAIG:

a. Most of the CJTF-7 staff was focused towards supporting the CPA and fighting the insurgency. For example, the C-2 spent more than 50% of her time supporting the CPA. She did yeoman's work getting the intelligence priorities out and making it seamless from tactical to strategic. She established the communications for this with little or no resources. Their focus in the October-November 2003 timeframe was taking down Saddam Hussein's support base. (pp. 3-6)

b. The conditions at AGP started to improve later in the fall. As the central location where all the prisoners were to be filtered through, it begged the question, "Are we doing it right?" (p. 6)

c. They (the V Corps staff) had to build the CJTF from scratch. They had to build an organization in which none of them had ever served. They had just fought the tactical fight; now they were focused at the strategic level. The CofS was moved over to support the CPA. Another piece of the staff was split to MG Wojdakowski to fight the war. Because of resourcing and the way they were set up, the staff was pulled in three different directions. All the divisions and SEP BDEs "morphed" from 12 to as many as 18 SEP BDEs. All were waiting for guidance and direction, and it was a challenge. (pp. 14-15)

d. The primary staff officers focused up, and by default, the lower level staff officers worked the other issues. The residual SJA personnel were running the show in the OSJA because the leadership was preoccupied running the war and supporting the CPA. There was limited time to go out and see what was happening. (p. 15)

e. CJTF-7 was given not only CJTF responsibilities, but also ASCC and ARFOR responsibilities. LTG Sanchez was one person, and a brand-new LTG. He did not complete two years as a division CDR. He went from commanding about 15,000 Soldiers in a division to over 180,000 people in a coalition. It overwhelmed him and the CJTF-7 staff. (p. 15)

f. With respect to additional oversight of detention and interrogation operations that could have been provided by LTG Sanchez and MG Wojdakowski, there should have been one person in charge of detention and interrogation facilities. There was no CofS. The C-1 was responsible for personnel and ensuring there were backfills. The C-2 was setting the overall intelligence collection priorities. The C-3 was overall responsible for detention operations with some execution responsibilities with the PM. The C-4 was responsible for logistical support. MG Wojdakowski was establishing priorities not only for the detention facilities, but also for the different base camps and the construction. Finally, there were all the SEP BDEs that fell under MG Wojdakowski. A person would have to go to individual staff sections to talk different issues. There was no CofS to synchronize the efforts. (p. 20-21)

g. Initially, AGP was a temporary facility, and MG Wojdakowski gave it very little priority. In the summer of 2003, everyone was living in pretty shoddy conditions. LTG Sanchez visited, and directed that this be fixed. (p. 20)

h. MG Wojdakowski had two new BDE CDRs in COL Pappas and BG Karpinski. These CDRs were not experienced in the theater. COL Pappas came out of the US Army War College, and BG Karpinski came out of the Reserve ranks. MG Wojdakowski could not have known their experience level. They probably demanded more oversight and supervision. (p. 21-22)

i. In MG Wojdakowski's defense, he was trying to get the Logistics Capabilities (LOGCAP) set up, secure the immature lines of communications, and establish contracts to get the supplies moving forward. The units' equipment had just gone through a war, and needed a lot of attention. As a result, he let COL Pappas and BG Karpinski execute their mission in a decentralized way. In retrospect, he probably should have brought them in and given them more specific guidance because he was in their direct chain of command. Those units needed more attention. BG Karpinski probably did not accept any guidance or leadership. COL Pappas was probably "hungry" for it. (pp. 22- 23)

j. In his opinion, BG Karpinski wanted the position of command but did not want to accept the responsibilities that went with it. She had to be told to move her staff to Iraq. She was often found back in Kuwait. She had to be directed to go check on the MeK facility that held the Iranian freedom fighters. LTG Sanchez had a confrontation with her about taking charge. There were indications she was weak. (p. 23)

k. In COL Pappas' case, his inexperience led to the lack of a decision on making someone in charge of the JIDC. He had other BN CDRs, and he could have moved one into AGP and set up a clear chain of command to execute that mission. (p. 24)

l. MG Wojdakowski's failure to recognize this need for additional oversight was a shortcoming, but it was not negligence, primarily because of the magnitude of what he was facing. (p. 24)

m. The failure to effectively manage the pressure for intelligence on JIDC personnel fell at COL Pappas' level and below. The pressure for intelligence was not abnormal, and was appropriate. But as the pressure moved down to the lower levels, the interpretation of the CDR's intent and the establishment of standard procedures were not there. (p. 26)

n. The Army and the joint community had no system for dealing with the ICRC in this situation. Our doctrine did not deal with a strategic detention facility. There was no specific staff responsibility in CJTF-7 to interface with the ICRC, but that was later fixed. (pp. 29-30)

o. The fault of not re-evaluating the campaign plan was more CENTCOM's fault that LTG Sanchez'. CJTF-7 used FRAGOs to change the plan. They did not have the time or resources to rewrite the campaign plan. Later there was a four-star CDR there, with separate Title 10 ASCC responsibilities from the warfighting responsibilities. (pp. 31-32)

p. BG Karpinski used the TACON relationship both ways. She told CJTF-7 they had to support her. In reality, her support base was the 377th TSC. The 377th TSC did not see any role in supporting the 800th MP BDE. BG Karpinski kept going back to Kuwait to keep that relationship going. She played both sides against the middle, and never accepted ownership of her mission. (p. 33)

q. V Corps was left "holding the bag" when CFLCC left. Although the senior leadership in CJTF-7 was responsible for what did and did not happen, they did tremendous work based on what they were tasked to do. We as an Army did not set CJTF-7 and its leaders up for success, and we're part to blame. A situation was dealt to them for which their level of experience and their resourcing was inadequate. This was a "travesty." As a Nation, as a joint community, we did not step up and help them when we should have, and that was terrible. (pp. 34-35, 37) (EXHIBIT D-4)

5. After being advised of his rights, on 21 October 2004, (b)(7)(D) to DAIG:

(b)(7)(D)

(b)(7)(D)

[redacted]

b)(7)(D)

6. On 22 October 2004, COL b)(6)-4 & (b)(7)(C)-4 former Assistant Chief of Staff (ACofS) G5 Plans, 3d Army/CFLCC, testified to DAIG:

a. As the ACofS G5 Plans, he was responsible for directing the development of the supporting ground major operations plan from CFLCC as part of the CENTCOM Plan 1000V. (p. 2)

b. As ARCENT, 3d Army was responsible for administrative control (ADCON) of all Army forces in the theater, mainly combat support and combat service support to the Army and Army support to other Services. (p. 4)

c. He heard that the RFF process came about directly from the Office of the Secretary of Defense (OSD). The official flow of information went to CENTCOM to Joint Forces Command (JFCOM) to the JCS and down to the Services. OSD approved every single RFF. CFLCC also sent their requests directly to FORSCOM in an effort to keep them informed as this process continued throughout so they would not be surprised. (pp. 5-6)

d. The decision for V Corps to become CJTF-7 occurred very rapidly sometime around 3-4 June 2003. He recalled having only about 3 weeks to work the transfer of authority, battle handover, task organization, how they would man the JMD and how many CFLCC officers would move to reinforce V Corps staff. (p. 14)

e. The CG, CENTCOM, wanted to reestablish its ASCC HQs so that they would revert back to a regional focus, vice being a sole focus on one country. They were not formally relieved of their AOR responsibility, but it was understood they would focus more on their warfighting responsibility and that risk would be taken in other areas of the AOR, such as the Horn of Africa and Afghanistan. It was his personal belief that this decision was a mistake. He believed that they should have continued the force flow and that CFLCC should not have left. (pp. 13-15)

f. Part of the battle handover from CFLCC to V Corps was the establishment of a JMD. They spent long hours looking at the V Corps staff and looking at what augmentation they would need, especially personnel and communications. There were some heated discussions about the numbers of CFLCC people that would go forward. They had a number of augmentees and one of the decisions made was that those augmentees who had not completed their 179-day tours would augment the V Corps staff. Three of his 18 officers in the C5 moved to the V Corps/CJTF staff. (p. 15)

g. The CG, CENTCOM, directed V Corps to assume the CJTF. At the colonel level, he made it known that the recommendation was that CFLCC should stay. One of their courses of action for planning was an insurgency, but none of them saw this as a likely outcome. They were engaged in discussions with the multinational force that would relieve 1st Marine Expeditionary Force (MEF). There were handovers within handovers. That was adding too much to the complexity that was, in his judgment, too much to bear for the V Corps HQs even with reinforcement from CFLCC HQs. The conversation he had with two members of the CENTCOM staff indicated they agreed because they did not know what was going to happen with the enemy. CFLCC never made the assumption that the security environment would be relatively benign when the handover would take place. (pp. 17-18)

h. As it became more apparent they would hand over the Phase IV mission to CJTF-7, they began to work the process by which Army used to augment their HQs as well as the JMD. They began to re-look that and how to sustain it until they learned they were going to hand the mission to V Corps on 15 June 2003. Then their focus became how they would transition those billets to V Corps to make them a CJTF staff. (pp. 21-22)

i. He had no idea why CFLCC retained OPCON of 800th MP BDE. Under the doctrinal definition TACON gave the CDR all the authority he needed to specify tactical tasks that the BDE would perform. By retaining OPCON at CFLCC, that would relieve CJTF-7 for providing combat service support. CFLCC did not have a command and control relationship with CJTF-7. They were co-equals with CJTF-7. (pp. 30-32)

j. The JMD was finalized before he left in July 2003. The problem was the JMD was never filled with personnel. It was not a JMD but an Army manning document. The Navy and Air Force argued they could perform those tasks from within their components. The responsibility fell to CFLCC and the Army to fill the JMD. There was not one voice talking for CENTCOM on this. CENTCOM looked to JFCOM, but JFCOM did nothing. He was unaware if CENTCOM pressed the issue with JFCOM. CFLCC went to the Army. The Army's response was they were adjudicating the rebuttals and would fill them eventually. (pp. 36-38)

k. He disagreed with the Schlesinger report findings that it was clear in July 2003 that there was a major insurgency growing in July. At the time he left theater on 5 July 2003, there had been an increase in incidents, but they appeared isolated as they were spread across the country. (pp. 41-42)

l. CJTF-7 had the adaptive tools to be an effective organization; they just did not have enough personnel because the JMD was not filled. (p. 42)

m. As far as he knew and until the time he departed theater, CJTF-7 never requested additional forces. There were none to be had. OSD stopped the force flow and said the 1st Cavalry (CAV) Division was not coming. The assessment was it was not necessary to bring 1st CAV as there was nothing to fight. (p. 45) (EXHIBIT D-6)

7. After being advised of b)(7)( ights, on 22 October 2004, b)(7)(D) estified to DAIG:

b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

8. After being advised of his rights, on 26 October 2004, (b)(7)(D) testified to DAIG:

(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D) [redacted]

9. After being advised of his rights, on 27 October 2004, (b)(7)(D) [redacted] testified to DAIG:

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

10. After being advised of rights, on 29 October 2004, (b)(7)(D) testified to DAIG:

(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D) [redacted]

11. After being advised of his rights, on 9 November 2004 (b)(7)(D) [redacted] testified to DAIG:

[redacted]

(b)(7)(D) [redacted]

12. On 24 November 2004, GEN Kern testified to DAIG:

a. The assumptions that went into the planning of Phase IV for SASO turned out to be wrong. There may have been an expectation that it would be like Desert Storm when Phase III was complete. In fact, CJTF-7 was in an insurgency operation which increased in intensity during a period in which troops were being sent home. If LTG Sanchez had been put through a BCTP, the mission and tasks would have been reviewed in detail, rather than taking a Division CDR, throwing him into a Corps CDR HQs, taking away half his staff, and telling him he now had a mission as a CJTF. (p. 4, 13)

b. The CJTF-7 was established without a manning document. MPs were sent home, and the plan did not prepare for the detention of large numbers of detainees. Initially, CJTF-7 was not prepared for intelligence collection operations to determine the leadership and targets of the insurgency. LTG Sanchez performed these tasks as events unfolded, rather than based on the orders he was originally given. (p. 14)

c. While the Kern Report criticized LTG Sanchez and MG Wojdakowski for not doing a rigorous task analysis of the mission, they were not given the time or resources to do it, either. While they were faulted for being the CG and DCG, it was much more the environment we "threw them in." In the end, they were accountable for their command. (p. 4)

d. Regarding what MG Wojdakowski should have done differently for providing oversight, he should have gone back to LTG Sanchez for a restated mission and a re-look of their tasks. Out of that analysis may have come a new command structure where the MP BDE and MI BDE fell under the same command with a single person in charge. Instead, there was a staff running the MI operations, and a CDR running detention operations, and they were not integrated. This was a failure of doctrine and training. (pp. 5-6)

e. There were no orders assigning intelligence operations to a CDR at AGP. CJTF-7 created the JIDC, a staff function that reported up through staffs. The MI BDE CDR was never assigned the task of conducting intelligence operations in terms of interrogation. It was assigned to a JIDC which never really grasped the mission. In his view, the JIDC should have been assigned to an MI BN CDR. The JIDC was an emerging doctrinal organization. COL Pappas felt ownership for all the intelligence interrogation operations, but there were no orders specifically stating such. (pp. 6-8)

f. The C-2 was asked to come in mid-stream and set up the intelligence operation, and this was done with the best of intentions and the best capabilities that could be brought to bear. Where the JIDC came up short was no one established a chain of command for it. (p. 11)

g. There were two things that happened to LTG Sanchez and MG Wojdakowski that were unfortunate. First, they were overwhelmed with things to do and under-resourced to do them. They were trying to divide their attention between supporting the reconstruction of Iraq and conducting military operations. There was not enough time in the day or people to do both. Secondly, time should have been taken to do a thorough mission analysis and perform some mission rehearsals. That did not happen. LTG Sanchez was pushed into command of a CJTF without giving him the preparation given to every other Corps CDR. This mission was far more complex than a Corps command because coalition forces were being brought in. While people were critical of the CG, DCG, and their staff, they were overwhelmed with things to do. (pp. 5-16)

h. LTG Sanchez was paying attention to AGP. He was telling people to treat detainees humanely and abide by the GCs. He worked to improve the security of AGP. (p. 17)

i. There was no evidence that MG Wojdakowski saw the ICRC Working Paper. In his (GEN Kern's) view, however, BG Karpinski had a duty to report the findings in the ICRC Working Paper to LTG Sanchez. She was responsible for detention operations. (p. 19)

j. A lot of the discussion around the matter of the TACON relationship of the 800th MP BDE to CJTF-7 was "smoke." It did not matter what the command relationship was with higher, if things were not going right, CDRs needed to take the issue to the next level of their command regardless of the relationship. This was a command responsibility held by every CDR. The discussion about TACON vs. OPCON was not pertinent to command responsibility. (pp. 20-21)

k. LTG Sanchez and MG Wojdakowski would have responded to BG Karpinski if she came to them for help with resourcing, even though technically her support came from the 377th TSC. She took no opportunity to move people from other detention facilities to AGP. It was a failure on her part to not do everything within her power to reallocate her resources before going to LTG Sanchez for help. If necessary, she could have brought LTG McKiernan in with her to talk to LTG Sanchez. There was no evidence that BG Karpinski went back to the 377th TSC and asked for more personnel resources. (pp. 21-22)

l. MG Wojdakowski had more experience that BG Karpinski, and should have either changed the command relationship or gone directly to CFLCC to fix the problems that were occurring. But the gravity of the problem was never properly reported to him, so he never saw that it was something he needed to "put on the top of the list and go fix." (p. 24)

m. In retrospect, MG Wojdakowski did not do enough to provide oversight of the 800th MP BDE and the 205th MI BDE, but he did not have enough time. He had up to 18 SEP BDEs, which was an overwhelming responsibility. There were also logistics issues and CPA issues. He acted as both the DCG and the CofS. He (GEN Kern) did not know what issues the other BDE CDRs were bringing to him. He may have prevented other things from happening in the other SEP BDEs because he directed energy going towards those. There was also the Polish multi-national division with which to deal. He had far more to do than was achievable by one person in a 24-hour day. It was unclear if he could have done more. The failure was one of him being inadequately resourced to accomplish all the missions he had, and having staffs and CDRs who did not provide him the right feedback. (pp. 25-26)

n. MG Wojdakowski was not derelict in his duty. He was so over-tasked that he (GEN Kern) saw no evidence that MG Wojdakowski was willfully derelict. He (GEN Kern) did not know how much more efficiency could have been "squeezed out of that turnip." CJTF-7 was doing the very best they could do given the myriad of missions which over-tasked them at the start. They were trying to prioritize what was important. The system failed, rather than dereliction of any individual. They were working seven days a week, up to 20 hour days, jumping between two HQs. Labeling their actions as dereliction was wrong. (pp. 46-49)

o. "Responsibility" was different than "accountability". CDRs were responsible for everything within their command. CDRs held people in their organizations accountable for their actions. LTG Sanchez' integrity in establishing accountability was very clear, and he held himself personally responsible for what happened. Had he been given the ICRC Working Paper and had a staff that had practiced and functioned together, it might have come to his attention sooner. MG Wojdakowski had more direct responsibility over those BDEs. In retrospect, he should have brought BG Karpinski and COL Pappas in and more clearly defined their relationship. But he was also over-tasked in the number of BDEs he was tasked to supervise. He was not derelict, and held himself accountable for what happened. (pp. 50-51) (EXHIBIT D-12)

13. After being advised of his rights, on 29 October 2004, (b)(7)(D) [redacted] testified to DAIG:

(b)(7)(D) [redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

(b)(7)(D)

[redacted]

(b)(7)(D)

[redacted]

(b)(7)(D)

(b)(7)(D)

(b)(7)(D)

[redacted]

# TAB 4

1. Article 92 of the UCMJ stated dereliction in the performance of one's duties consisted of three elements: a person had certain duties; the person knew or reasonably should have known of those duties; and the person was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. Actual knowledge of the duties could be shown by regulation, customs of the service, or testimony of persons who held similar or superior positions. Willfully meant intentionally. Negligently meant an act or omission which exhibited a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. Culpable inefficiency was inefficiency for which there was no reasonable or just excuse.

2. Did MG Wojdakowski have a duty with respect to detention and interrogation operations? **Yes.**

a. AR 600-100 stated GOs were responsible for creating policies, structures and programs and for ensuring that procedures developed at lower levels further supported Army policy and values. As such, MG Wojdakowski had a duty to provide a structure for oversight of the staff sections and commands that fell under him, and as a GO, he executed those responsibilities at the strategic level of leadership.

b. As the DCG, CJTF-7, MG Wojdakowski supervised as many as 15 SEP BDEs that were assigned, OPCON, or TACON to CJTF-7. These BDEs included the 205th MI BDE, which had command responsibility for interrogation operations, and the 800th MP BDE, which had command responsibility for detention operations. MG Wojdakowski also resourced the detention and interrogation missions, both in terms of equipment, personnel, and contracting services. Additionally, MG Wojdakowski was the de facto CofS, CJTF-7, and exercised staff supervision of interrogation and detention operations through the C-2 and C-3, respectively. MG Wojdakowski was the rater for COL Pappas, MG Fast, and MG T. Miller, and as such was responsible for supervising their duty performance. MG Wodjakowski's duties concerning detention and interrogation inherently included a responsibility to respond to identified shortcomings in these areas.

3. Did MG Wojdakowski know or should he have reasonably known of this duty? **Yes.**

a. The evidence established that MG Wojdakowski knew and accepted his duties and responsibilities regarding detention and interrogation operations. b)(7)(D) [redacted]

b)(7)(D) [redacted]

(b)(7)(D)

b. Testimony was consistent among other witnesses as to MG Wojdakowski's duties and responsibilities with respect to detention and interrogation operations.

4. Was MG Wojdakowski derelict in the performance of those duties through willfulness, neglect, or culpable inefficiency? **No.**

**a. With respect to MG Wojdakowski's oversight of detention and interrogation operations:**

(1) Both the Jones and Schlesinger Reports stated that MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. The Jones Report stated CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP. The Kern Report stated there was a lack of clear command and control at the CJTF-7 level. The Schlesinger Report stated that commanding officers and their staffs at various levels failed in their duties and such failures contributed directly or indirectly to detainee abuse. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations.

(2) The evidence indicated that that MG Wojdakowski established regular procedures by which he provided oversight of the SEP BDEs and staff in CJTF-7 with responsibilities for detention and interrogation operations.

(a) Testimony indicated MG Wojdakowski provided frequent guidance and mentoring to the CDRs of both the 205th MI BDE and 800th MP BDE.

(b)(7)(D)

(b)(7)(D)

(b) MG Wojdakowski provided routine oversight of the SEP BDEs through a variety of mechanisms. He held thrice-weekly TACSAT updates with the SEP BDE

CDRs, which kept him abreast of the BDEs and provided the CDRs an opportunity to raise issues and receive guidance on a regular basis. Monthly LRRs were held in which the CDRs provided him updates on their materiel readiness, resource, and life support issues. As CDRs planned and executed missions, MG Wojdakowski required that they rehearse and outline their plans to him.

(c) Additionally, MG Wojdakowski provided oversight specifically of detention and interrogation operations by several means. Command responsibility for detention operations was exercised through BG Karpinski, and command responsibility for interrogation operations was exercised through COL Pappas. Similarly, staff responsibility for detention and interrogation operations was exercised through the C-2 and C-3, respectively. MG Wojdakowski held two detention summits in the fall of 2003 that pulled together elements of the CPA, the Iraqi Provisional Government, the CJTF-7 staff (to include the SJA, C-2 and C-3), and representatives from the Divisions, the 205th MI BDE, and the 800th MP BDE. The purpose of the summits was to coordinate and plan for detention and interrogation operations in Iraq, provide guidance, identify resourcing issues, and ensure unity of effort. He visited AGP three times and walked through the facility to observe ongoing construction projects, life support, and force protection efforts, and directed corrective action as necessary. He synchronized the daily staff updates to LTG Sanchez, which included intelligence and operations briefings. While he was not personally involved in the execution of interrogation operations, he provided resources in terms of equipment, supplies, and contracting for the interrogation mission, and received regular updates from MG Fast and COL Pappas regarding intelligence operations. LNOs from the 800th MP BDE were assigned to the PM office that provided a direct line of coordination between the MP BDE and the CJTF-7 staff. The C2X conducted weekly visits to the JIDC that assisted the C-2 in staff oversight of interrogations. Detainee population numbers and MP strength were regularly briefed to MG Wojdakowski so that he could make management decisions regarding detention facilities. Testimony indicated several CJTF-7 FRAGOs were published that addressed detention operations and the treatment of detainees.

(d) The Jones Report stated CJTF-7 staff elements reacted inadequately to earlier warnings and indications that problems existed at AGP, and that warnings, such as the ICRC Working Paper, should have indicated that additional oversight and corrective actions were needed. When asked what additional oversight and corrective action should have been provided by MG Wojdakowski, LTG Jones and GEN Kern provided their opinion that, in the absence of a CofS, there should have been one person in charge of detention and interrogation facilities. However, several witnesses testified that a single POC was considered by LTG Sanchez as early as the fall of 2003, but, through no fault of CJTF-7's, the position did not materialize until MG G. Miller's arrival in March 2004. While LTG Sanchez' establishment of a single GO staff POC responsible for both missions did not occur until January 2004 with the designation of the C-3 as the staff proponent, MG Wojdakowski was actively and appropriately involved in providing oversight of detention and interrogation operations until his departure in February 2004.

(3) Furthermore, the evidence established that MG Wojdakowski exercised oversight of detention and interrogation operations IAW Army doctrine and regulation.

(a) FM 101-5 stated that command included the authority and responsibility for effectively using available resources for the employment of military forces for the accomplishment of assigned missions. AR 600-20 stated that CDRs subdivided responsibility and authority and assigned portions of both to subordinate CDRs and staff members. The evidence established that command responsibility for detention and interrogation operations was executed through the CDRs of the 800th MP BDE and 205th MI BDE, respectively. FM 101-5 also stated that CDRs delegated authority to staff members to accomplish their missions. As the de facto CofS, MG Wojdakowski was LTG Sanchez' principal assistant with executive management authority for directing and supervising the CJTF-7 staff at Camp Victory. IAW Army doctrine, the C-2 was the principal staff officer responsible for MI operations; and the C-3, through the PM, was responsible for detention operations. The evidence established that staff oversight of detention and interrogation operations was appropriately executed through the C-3 and C-2.

(b) It was GEN Kern's opinion that MG Wojdakowski should have gone back to LTG Sanchez for a restated mission for CJTF-7, which may have identified a need for a new structure in which the MP BDE and MI BDE fell under the same command with a single person in charge. However, doctrine was silent as to who should have overall responsibility for detention operations. There was no joint or Army doctrine that suggested a single staff officer or CDR oversee a combined MI and MP operation. While the requirement for a GO in charge of both operations may have been desirable in hindsight, this approach was not doctrinal; CJTF-7 did not have the resources to create an additional GO position; and the JMD process could not support such a position in a timely manner. As such, the initial lack of such a position was not indicative of an impropriety on the part of MG Wojdakowski.

(c) LTG Sanchez designated the C-3 as the single POC on the staff overall responsible for all aspects of detention operations in January 2004. Shortly thereafter, CJTF-7 sent a request for detention operations specialists and a detention operations command cell to CENTCOM. By April 2004, MG G. Miller arrived and became the DCG solely responsible for detention and interrogation operations, with no additional assigned duties. By contrast, the evidence established that MG Wojdakowski had a myriad of duties in addition to oversight of detention and interrogation operations. While LTG Sanchez was focused on supporting and enabling the CPA mission, MG Wojdakowski was focused on the coalition's counter-insurgency fight. He was also the de facto CofS. Additionally, he was engaged with establishing the LOGCAP for the

ITO and moving CJTF-7 out of an "expeditionary" logistics posture. He was involved with all the security associated with the ITO and the borders, and for battle space management on the ground, ports, ocean-going vessels, LOCs, and the entire air space over Iraq and in the surrounding area. From June 2003 to January 2004, MG Wojdakowski individually exercised a scope of responsibility that was eventually held by three GOs: DCG, CJTF-7; CofS; and DCG, Detainee Operations. His ability to provide oversight of detention and interrogation operations was likely affected by this extremely broad scope of responsibility; however, the oversight he did provide was appropriate and doctrinal.

(4) AR 600-100 stated that strategic leaders established structure, allocated resources, and articulated strategic vision. As a two-star DCG of a combined joint task force, MG Wojdakowski properly exercised his responsibilities at the strategic level of leadership.

(a) MG Wojdakowski focused on fighting the coalition's counter-insurgency fight, resourcing CJTF-7's operations, and providing strategic-level oversight of detention and interrogation operations. He supervised subordinates at the COL through MG ranks. AR 600-100 further stated that the senior level of leadership included leaders at the BDE through corps level, and the core responsibility of senior level leaders was the need to develop, motivate, and coach subordinate leaders. MG Wojdakowski expected COL Pappas and BG Karpinski, as senior leaders, to exercise aggressive and appropriate supervision of their units at AGP through their subordinate staffs and CDRs who, in turn, were required to execute their supervisory responsibilities at the direct level of leadership. As such, MG Wojdakowski, as a strategic leader, was not responsible for the direct supervision of Soldiers operating at AGP.

(b) Direct supervision of the MP Soldiers at AGP was the responsibility of the MP BN CDR, LTC Phillabaum, and his subordinate leaders. Direct supervision of the MI Soldiers at AGP was the responsibility of LTC Jordan and subordinate MI leaders in the JIDC. AR 600-100 stated that leaders at the direct level affected values and behavior by establishing day-to-day procedures, practices, and working norms, by their personal example, and by building discipline. The evidence established that the abuses at AGP, most of which were clearly criminal acts, were committed by morally corrupt and unsupervised Soldiers and civilians whose actions went undetected for weeks, and were the result of supervisory failures below the strategic level of leadership. The abuses were not attributable to a lack of oversight by MG Wojdakowski.

(5) The evidence established that MG Wojdakowski's ability to provide more oversight was hampered by the staff's lack of preparation and training as a CJTF; the low manning level of the CJTF-7 staff, to include an initial lack of GO staff officers; CJTF-7's significant support to the CPA; and the demands of the growing insurgency. Both testimony and reports revealed that CJTF-7 was never fully resourced in terms of

personnel, both in numbers and grade-level. The CJTF-7 staff did not undergo a BCTP normally afforded to new corps-level staffs prior to assuming the CJTF mission. The JMD reached no more than a 60% fill, and much of the available staff's effort was directed towards support of the CPA. A portion of the staff, to include the CofS, moved from the Main HQs CP to co-locate with the CPA. CJTF-7's challenges were exacerbated by the slow fill and short personnel rotations at the CPA. As a result, a significant portion of the already under-strength staff was devoted to assisting the CPA with the reconstruction of Iraq's infrastructure and internal security forces.

(6) In conclusion, the preponderance of the evidence indicated that MG Wojdakowski provided proper oversight of detention and interrogation operations IAW Army doctrine and regulation, in a manner that could reasonably be expected given the broad range of his responsibilities. In spite of multiple responsibilities and despite significant resource challenges, numerous witnesses testified to efforts made by MG Wojdakowski to inform, mentor, direct, resource and supervise his subordinates through a variety of mechanisms. The evidence also established that MG Wojdakowski held his staff and subordinate CDRs accountable for their responsibilities, and expected them to fully employ their own leadership and internal resources prior to asking for additional resources in a constrained environment. Finally, the evidence established that, while a single GO for detention and interrogation operations was desirable, MG Wojdakowski provided appropriate strategic level oversight of detention and interrogation operations IAW Army doctrine and regulation.

b. **With respect to resourcing and providing corrective action of detention and interrogation operations:**

(1) The Jones report stated the TACON relationship of the 800th MP BDE to CJTF-7 resulted in disparate support from the CJTF-7 staff and lower priority for resources needed for detention operations. The Schlesinger report stated that MG Wojdakowski failed to initiate action to request additional MPs for detention operations after it became clear that there were insufficient assets in Iraq; MG Wojdakowski and the staff should have seen that urgent demands were placed to higher HQs for additional assets; and that CJTF-7's failure to request additional forces was an avoidable error.

(2) The evidence established that MG Wojdakowski and CJTF-7 provided significant resources and took corrective action, within their capability and authority, to improve security and living conditions at AGP.

(a) CJTF-7 operated in an austere environment from May-December 2003. Sustaining the force was difficult and dangerous, as all supplies were brought in from outside Iraq and convoys were routinely attacked. In addition, much of Iraq's infrastructure, such as water treatments plants, electrical plants, and government buildings were severely damaged and looted. As a direct result, Soldiers' and detainees' living conditions were difficult and austere throughout Iraq, to include at AGP.

(b) When AGP was declared an enduring base in October 2003, MG Wojdakowski directed that additional funds and engineering effort be applied towards AGP to improve the facilities, and conditions at AGP slowly improved throughout November-December 2003. Testimony indicated that the 800th MP BDE received support in a manner not dissimilar to that of assigned or OPCON units, and the TACON relationship with CJTF-7 did not materially affect their resourcing by CJTF-7.

(3) The evidence further established that MG Wojdakowski acted appropriately when apprised of personnel shortfalls in the 800th MP BDE.

(a) The RC had no replacement system for individual losses, and the 800th MP BDE, as well as other RC units, was eroded in personnel strength due to losses by illness, injury, or demobilization requirements. The shortages were systemic RC issues, and not due to lack of oversight on the part of CJTF-7. While CJTF-7 recognized these personnel shortages, there was no mechanism to alleviate them. The theater rotation plan was the only means to significantly affect MP unit strength.

(b) Although the Ryder report identified that the 800th MP BDE was under-strength, it also stated that the BDE had a "clear and logical plan" to realign its remaining BN and company sized units to meet its mission requirements. (b)(7)(D)

(b)(7)(D)

(c) Testimony indicated that the bulk of the Army's MP assets were already in Iraq. Additional MP companies were not available, and some replacement companies for the 800th MP BDE would be ILO companies. The most feasible solution for the immediate shortage of MPs was the internal redistribution of the 800th MP BDE's units. The evidence indicated that upon becoming aware of BG Karpinski's personnel concerns and the lack of theater replacements, multiple leaders, to include MG Wojdakowski, attempted to influence BG Karpinski to make internal unit redistribution of her own resources between detention facilities. (b)(7)(D)

(b)(7)(D)

pressure. His actions were appropriate in light of the limited resources available.

(4) The evidence indicated that when force protection issues concerning AGP arose, MG Wojdakowski took appropriate action.

(a) (b)(7)(D)
(b)(7)(D)

(b) Although the Taguba Report indicated that FRAGO 1108 exacerbated an already ambiguous relationship between the 800th MP BDE and the 205th MI BDE, COL Pappas indicated that he understood his responsibilities with respect to force protection of the FOB, and that LTC Phillabaum understood that he still had the responsibility to run the detention operation. In fact, by making COL Pappas the FOB CDR, FRAGO 1108 fixed responsibility for force protection at AGP with the senior CDR present at the prison. FRAGO 1108 did not relieve the 800th MP BDE of its detention operations responsibilities, nor did it place MP Soldiers under the command of the MI BDE. The Kern Report stated that it appeared that BG Karpinski was the only person among the Army leadership involved who misunderstood the FRAGO.

(5) Regarding MG Wojdakowski's response to ICRC reports, the evidence indicated he was not made aware of abuse allegations within the ICRC Working Paper. The few staff members and CDRs who were made aware of the Working Paper's allegations testified they considered many of the allegations to be non-credible, and did not report them further. When made aware of elements of ICRC reports indicating resourcing issues for which he was responsible, MG Wojdakowski took appropriate action. On one occasion, he directed the purchase of jumpsuits and discussed quality of life issues raised by the ICRC with BG Karpinski. MG Wojdakowski testified the feedback he received indicated the ICRC was pleased with improvements being made to AGP.

(6) In conclusion, the evidence indicated that when legitimate resource shortcomings were brought to his attention, MG Wojdakowski took appropriate corrective action within his authority to resolve them.

c. **With respect to developing alternative courses of action pertaining to detention operations:**

(1) The Schlesinger Report stated if CDRs and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003. Responsible leaders, to include the DCG, CJTF-7, could have set in motion the development of a more effective alternative course of action. AR 600-100 stated that leaders were responsible for anticipating, managing, and exploiting change; anticipating and solving problems; acting decisively under pressure; and evaluating and accepting risk to exploit opportunity. GOs at the strategic level were responsible for creating structures and programs for ensuring that procedures developed at lower levels further supported Army policies and values.

(2) The evidence established that MG Wojdakowski took appropriate action with respect to developing courses of action and procedures for detention operations. Testimony indicated that in the summer of 2003, LTG Sanchez anticipated shortcomings in CJTF-7's ability to execute detention operations of the magnitude that was required, and recognized that expert assistance was needed. LTG Sanchez raised his concerns to higher HQs. Subsequently, several assistance teams, to include the Miller and Ryder teams, arrived in the ITO to provide guidance on both detention and interrogation operations. These assistance teams provided on-site training to units involved in the detention and interrogation mission, and provided examples of applicable SOPs and policies. MG Wojdakowski was briefed on and considered the teams' findings.

(3) Furthermore, the 800th MP BDE was directed to move its HQs to Iraq in order to more closely supervise the detention mission for which it was responsible. Testimony indicated that the C-3 published several FRAGOs providing detention operations guidance and direction. MG Wojdakowski held regular detention summits in order to assess the on-going mission, during which issues were raised and corrective action was directed. When AGP was declared an enduring base in November 2003, MG Wojdakowski directed additional resources towards the improvement of AGP's facilities. The detainee population was tracked regularly, and as capacities were reached, MG Wojdakowski directed that detainees be cross-leveled between detention facilities. MG Wojdakowski was aware that additional MP units were not available, and the Army was using ILO units to replace MP companies in the ITO. As such, his decision to not initiate a request to higher HQs for additional MP forces was reasonable, and instead, he encouraged BG Karpinski to internally redistribute her own resources. Additionally, in December 2003, he directed the movement of MPs from the 1st AD to AGP.

(4) In conclusion, the evidence established that the detention mission in Iraq was conducted with the benefit of on-going analysis, periodic assessment, and modification as the mission required and as limited resources allowed. MG Wojdakowski's actions with respect to anticipating and developing alternative courses of action as the detention and interrogation mission evolved were appropriate.

5. The standard required that to prove dereliction of duty, the person, who had a duty and was knowledgeable of such duty, was required to be derelict in the performance of the duty through willfulness, neglect, or culpable inefficiency. The preponderance of the evidence indicated that MG Wojdakowski was not willfully derelict, negligent, or culpably inefficient with respect to his duties regarding detention and interrogation operations.

a. Multiple senior leaders, either in MG Wojdakowski's chain of command or in positions to make such judgments, unanimously testified to the overwhelming responsibilities placed on MG Wojdakowski, and to his admirable performance of duty in a resource constrained and hazardous combat theater. GEN Kern testified that MG Wojdakowski was overwhelmed with things to do and was under-resourced to do them. (b)(7)(D) [redacted]

b)(7)(D) [redacted]

b. There was no evidence that MG Wojdakowski was derelict in his duties with respect to detention and interrogation operations through willfulness, neglect, or culpable inefficiency. On the contrary, the evidence established that MG Wojdakowski consistently took appropriate action at the strategic level of leadership regarding the oversight, resourcing, and planning for both missions. While certain alternative actions, in hindsight, might have been more effective or beneficial, MG Wojdakowski's actions, in the context of the environment in which they occurred, were not culpably inefficient. Rather, the austere environment, lack of staff, and growth of responsibilities all created obstacles that MG Wojdakowski successfully overcame through, by all accounts, heroic efforts. As such, his actions regarding detention and interrogation operations were not indicative of an impropriety. Instead, MG Wojdakowski's efforts to provide appropriate oversight of detention and interrogation operations were pro-active, continuous, doctrinal, and properly within the scope of responsibility attributed to a strategic level leader.

D3

Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was taken on 13 September, 2004 at the Pentagon, Washington, DC between the hours of 1310 and 1415
By (b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1310. This inquiry is directed by The Inspector General of the Army.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to FOIA. Since I'll ask you to provided your Social Security Number to help identify you as the persons testifying I've previously provided you with an explanation of the Privacy Act.

[U] Did you understand it, Sir?

[U] MG FAY: Yes, I did,

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] (b)(6)-2 & (b)(7)(C)-2 Do you have any questions before we begin, Sir?

[U] MG FAY: I do not.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, please raise your right hand so I may administer the oath.

[U] [Major General George R. Fay was sworn and testified under oath as follows:]

[U] A. Okay.

[U] Q. Okay. Sir, one of the findings that you made in the report was that there was a lack of clear command and control of detainee operations at the CJTF-7 level. And by the way, Sir, I have brought the report with me so that if at any report we need to refer to it we can.

Sir, in your view who in CJTF-7 at that time was responsible overall for detainee operations prior to the assignment of Major General Geoff Miller?

[U] A. That was the problem.

[U] Q. Yes, Sir.

[U] A. Is that there was a real confusion as to who was in charge of detainee operation and that was our finding is that there was no clearly one person in charge. It was a shared responsibility amongst a number of staff elements and staff persons and commanders. And because it was so shared because everybody owned it nobody owned it.

[U] Q. Can you cite some of the folks that had a shared responsibility?

[U] A. Yes, well obviously first starting with the overall responsibility being, , Lieutenant General Sanchez as the CJTF-7 Commander, but below him there was the—, Deputy Commander who was—, Major General Wojdakowski, , and he had some responsibilities because he had both the 800th MP Brigade Commander and the Army Military Intelligence Brigade the 203rd?

[U] Q. Fifth.

[U] A. The 205th MI Brigade Commander both reporting to him. , but quite frankly Major General Wojdakowski was mostly involved with the logistics questions and running the huge numbers of logistics issues that concerned CJTF-7 at that time. And although he was somewhat involved with the detainee operations, I wouldn't say that he was focused on that. At least not based on my investigation.

[U] Q. Yes, Sir.

[U] A. And he was—and from that aspect he was even more involved with the MP Detention portions than he was the interrogation

portion. I think when it came to the interrogation area he just relied very heavily on Colonel Pappas as the Commander of the 205th MI Brigade.

[U] Q. Who he rated as well?

[U] A. Who he rated as well. He did not rate General Karpinski who was the Commander of the 800th MP Brigade. Although she thought that he was going to be rating her. But anyway, that—and I cover all that in the report.

[U] Q. Right.

[U] A. It's very—it was very confusing.

[U] Q. Yes, Sir.

[U] A. Additionally you had the Provost Marshal of CJTF-7 who had some responsibilities, but where they began and where they ended no one was quite sure. You had the CJTF-7 C-2 Staff, that would have been [redacted] in the beginning and then it shifted to Major—well first it was Brigadier General and then Major General Fast, after [redacted] So—and they had some responsibility relative to the interrogation operations and also the release boards, and then you had the Staff Judge Advocate that was providing legal advice and assistance not only to General Sanchez but each of those staff elements that I mentioned.

[U] So they were all involved. And the reality was because there were so many people involved it wasn't clear. It wasn't a focused issue , until General Miller was named and he did bring it under focus.

[U] How about Major General Tom Miller, Sir, the C-3, did he have a role that you saw?

[U] Well actually, when I was doing my investigation that General Fast informed me that at one point in time General Sanchez at a meeting became so frustrated with the whole detention operations issues, interrogations included with that, that he said, "Who here is responsible for this?" referring to his whole staff. And he then—General Sanchez —turned to General Tom Miller and said, "You're the three. You're responsible. " Now, General Fast had first believed at that meeting that occurred in October. General Miller when I interviewed him said, no, no, that did occur but it occurred much latter and in a time period that he thought, as I recall, was some time around February of 2004 when that meeting occurred.

[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

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[U] Subsequently General Fast and General Miller talked on the subject and both concurred that the original discussion by General Fast was inaccurate.

That in fact it did occur but it didn't happen until the January-February timeframe rather than the earlier timeframe.

[U] In your view, Sir, should a single person have been overall in charge at that time? Was that something doctrinally that they should have done?

[U] It was not doctrine and of course that's another one of the issues that we had identified. That the doctrine is silent as to who has responsibilities with regard to detainee operations. My opinion is that we should doctrinally address that issue and it is a shortcoming. And to this day we do not have a doctrinal answer. In other words, when General Miller leaves, you know, when he rotates out of Iraq, what's what the next solution? Show me a doctrine where his position exists. It does not exist in doctrine.

[U] All right, Sir. So in your view, Sir, did the method by which CJFT-7 control detainee operations prior to Geoff Miller's arrival violate any Army standard or doctrine? Perhaps not since there was no doctrine?

[U] There wasn't. There was no violation of Army doctrine in that regard I am aware of.

[U] Then given that there was no doctrine, apparently not any Army standard regarding detainee operations in the CJTF environment, what do you think General Sanchez should have done? Should he have recognized that he had a shortfall there? What are your thoughts on that, Sir?

[U] Yeah, I believe that there should have been an earlier recognition of the problems that existed. That the issues that came up at Abu Ghraib had some predecessors to it. This was not the first time that issues relative to detainee operations had arisen at the CJTF-7 level. It was known that these were issues. There were in my opinion enough issues early on. Earlier on during this process it was identified that it should have been recognized earlier and should have received more focused attention earlier than it did. It's easy now to second-guess and I'm not—I understand all of the pressures and the war fighting issues that he was facing, which is why I think we were very careful not to be—at least we tried not to be— too criticizing in our opinions because you've got to go back to the fact that the CJTF-7 operation was, in my opinion, a pick-up team. We put that together. 'We' the United States put that together in a very short time period and it was never fully staffed and never fully organized and we eventually recognized the shortfalls of doing it that way, which now why we now have a Four Star Command there.

[U] Q. Right.

[U] A. With the Operational Three Star Command under that. This is only one of the reasons why we did this, but to place all the burden on General Sanchez I do not believe it is fair. I believe that it goes higher than General Sanchez. That 'we' as a country under resourced and under appreciated what we were going to be facing when we arrived in Iraq. And we were optimistic, in our opinion of the amount of resistance we were going to face. And when it turned into an insurgency we didn't react fast enough but even if we had reacted with lightning speed it still would have been too late. Which you know we should have been more pessimistic in our initial analysis of what Phase IV of the operation was going to present to us.

[U] Q. So let me ask you the tough question here, Sir, and you've sort of laid it out already but was General Sanchez's or for that matter General Wojdakowski failure to initially recognize that there was a lack of clear command and control in detainee operations at the CJTF-7 level. Was his failure to recognize this in your view in anyway improper or negligent?

[U] A. No.

[U] Q. –obviously in these circumstances?

[U] A. No, I think that it wasn't improper. It wasn't negligent. It was a fact that occurred. But given the view of the entire situation, the fact that this was an under resourced operation that it changed very quickly from a combat operation to an insurgency and they were left with a force that was not put together to fight an insurgency. They were reacting to the situation as they saw it. I don't believe it's negligence.

[U] Q. Okay, Sir, going back to General Miller, Tom Miller.

[U] A. Yes.

[U] Q. As when he raised his hand at some point saying that he was in charge. Do you recall during your look whether General Karpinski received any guidance concerning detention operations from General Miller?

[U] A. I don't ever remember—I interviewed General Karpinski for seven and a half hours. She never to my recollection mentioned General Tom Miller.

[U] Q. Right.

[U] A. Mentioned frequently General Geoff Miller.

[U] Q. Right.

[U] A. And his visits but never mentioned Tom Miller.

[U] Q. Right.

[U] A. So if there was an interaction there, it wasn't very significant.

[U] Q. Okay.

[U] A. Most of her interactions were with General Wojdakowski. And she did tell me about a lot of her interactions and General Wojdakowski told me about a lot of interactions with General Karpinski.

[U] Q. Right. Okay, Sir. And then Colonel Sannwaldt I believe was the PMO at the time. Any indication that she received much guidance from him?

[U] A. No.

[U] Q. Or the same thing?

[U] A. The same thing. No—no indications that she received much guidance from him, and I did not interview that Colonel.

[U] Q. I noted that.

[U] A. But you know the information that I can recall was that he was not a very involved player in detainee operations. He was doing the other traditional Provost Marshal stuff and I believe that Command looked to General Karpinski to be the detainee operations person.

[U] Q. All right, Sir. Another finding that was in your report was leaders failed to take steps to effectively manage pressure placed upon JIDC personnel. Sir, do you recall to which leaders specifically failed to take steps to effectively manage that pressure?

[U] A. Yeah, there I'm talking about the 205th and the JIDC management. So we're talking about Colonel Pappas, we're talking about Lieutenant Colonel Jordan; talking about Captain (b)(6)-2 & (b)(7)(C)-2 We're talking about Major (b)(6)-2 & (b)(7)(C)-2, and there's another Major who was also an operations officer----

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. Huh? (b)(6)-2 & (b)(7)(C)-2 No (b)(6)-2 & (b)(7)(C)-2 was on the——

[U] Q. The 800th?

[U] A. No, he was on the staff of Colonel Pappas. But he wasn't involved with—well to some extent involved but he was running the operations for the whole Brigade.

[U] Q. (b)(6)-2 & (b)(7)(C)-2

[U] A. (b)(6)-2 & (b)(7)(C)-2 That was the one, yeah.

[U] Q. One of those common names?

[U] A. That's right. That's right. It was Major (b)(6)-2 & (b)(7)(C)-2 that I was referring to. So that's the leadership that we were—that I was referring to when I made those comments.

[U] Q. So you weren't referring to General Sanchez or Fast or Wojdakowski?

[U] A. No, because it wasn't their jobs to protect those Soldiers at that level from that pressure. It was in my opinion the job of that unit and that unit Command structure.

[U] Q. Given that, Sir, in your view, what pressures did General Sanchez, if any, place on the intelligence community----

[U] A. Oh significant and he testified to General Jones that he did that. I mean General Sanchez was rightly frustrated by the situation. I mean, the situation quickly turned into a insurgency and we didn't have an adequate amount of information to find out who the insurgents were or where they operating, how they were operating, all the things that we need out of a unit, Human Intelligence structure, which of course we don't have a very robust unit intelligence structure. The Army took down most of that in the 1990s.

[U] Q. Okay, Sir.

[U] A. So we had limited assets to get him the information he needed but he was expressing those frustrations and putting that degree of pressure on Colonel Pappas and the other members of the 205th and his entire intelligence community. I don't think that was misplaced. I don't think it was wrong to do that. That's what 'we' in the Intel Community should and do expect from our Commanders. It's how that pressure is managed that's the important issue.

[U] Q. And you placed the responsibility for that management at Colonel Pappas' level and then down at that point?

[U] A. Yes.

[U] A. I know that General Fast definitely was not until after the fact, because I specifically remember my conversations with her on that subject. I also know that General Sanchez did not know because Colonel Warren told me he didn't bring him—he did not bring these issues to his attention. And I'm sorry what was the other name that you asked about?

[U] Q. Wojdakowski, Sir. Major General Wojdakowski.

[U] A. I can't answer that. I don't remember whether General Wojdakowski knew or didn't know so I don't know.

[U] Q. Sir, did you come across anyone on the CJ-2 staff that was made aware of the ICRC? I mean you mentioned Colonel Pappas, you mentioned Colonel Jordan. They were in the 205th.

[U] A. Yeah.

[U] Q. Colonel Jordan of course was murky. Did anyone on the CJ-2 staff, Colonel Boltz, perhaps or----

[U] A. No. I do not remember. That—I know that General Fast didn't know about it. Whether or not Boltz did because he then became her Deputy when she showed up. I don't know whether he saw them or he didn't see them.

[U] Q. You don't recall that, Sir. Sir, do you recall with whom General Karpinski's response to the ICRC report was staffed? I know that the Major, the Australian Major, on the SJA staff was the primary drafter of the response. Do you recall who he routed that through?

[U] A. Well, I know that Colonel Warren knew about the response.

[U] Q. Right.

[U] A. I'm not sure at what stage he saw the response but at some point, he saw the response. I don't know if he saw the final draft or what, but I know that he at some point in time saw some part of the response. I do not know who else besides the Australian Major, Colonel Warren, and would have been whoever the SJA person was on Karpinski's staff.

[U] Q. Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2 maybe was his name?

[U] A. I believe he was mentioned by Colonel—by General Karpinski to me as being a person she had a discussion with.

[U] Q. Yes. All right, Sir. We discussed the folks that ignored the ICRC recommendations. To what do you attribute this? Why did they ignore them?

[U] A. It was so unbelievable, as many people told me that they were laughable and in fact they did received a lot—, you know, humorous comments about them. When it was read by people no one could believe that they were true. The stories that were in there which ultimately did turn out to be true, no one that saw them that had direct knowledge about what was going on in that specific cell block could believe that American Soldiers would have been doing that —especially the woman's underwear issue because it was well known, especially at Abu Ghraib, that the clothing was unobtainable. That they were really jumping through hoops to get any type of clothing for the detainees at Abu Ghraib at that period in time. And so for this statement to say not only were they wearing—forced to wear underwear but they were forced to wear women's underwear. It was like well how could you get women's underwear. We can't even get regular clothes let alone women's underwear. But as it turned out, it was true but nobody believed it. Because it just was an unbelievable story.

[U] Q. And as a result, the allegations were not investigated by anyone?

[U] A. Correct.

[U] Q. And, Sir, was this failure to investigate— who would you place blame on? Who do you think should have investigated?

[U] A. I believe that we should—we, all of us that are involved with the International Committee of the Red Cross should give them more credence than we have traditionally given them. They are an independent fact-finding neutral party. So when they are presenting to us allegations, even if we believe those allegations to be false, I believe that we have a duty to look into them. It would be the same thing as what we do with the IG. I mean I know the IG looks into all allegations no matter how outrageous they would seem at first.

[U] Q. Right.

[U] A. We should have that same attitude towards the International Committee of the Red Cross.

[U] Q. And to the best of your knowledge the Army , does not have a standard that would indicate such?

[U] A. Correct, in fact, I would say the prevailing attitude is of the Red Cross. It's, those guys are always looking at the opposition side in protecting the human rights. And things that we are leery or—well, not leery but that we believe are questionable when they present them to us. Because they look upon as advocates for

the Army as we did with the JIDC, you lose that familiarity that the unit has. You lose the ability for the NCOs to make the determinations as to who has the ability to do which jobs. Who needs to be watched? Who doesn't need to be watched? How much influence does one Soldier have over another? Who's trained well; who isn't trained well? Who really knows their job; who doesn't know their job? NCOs do all of that. That couldn't happen at Abu Ghraib because nobody knew anybody. People were just sent there to do 'a job', it wasn't a unit. They created their own organization as best they could given the circumstances, but they never trained together. It's common and we hear it all the time in the Army you train as you fight. Well these people never trained together. They didn't know each other.

[U] Q. Right.

[U] A. So how do we expect them to fight together?

[U] Q. Given the shortage of personnel and other resources that you cited in your report, Sir, what else could CJTF-7 have done?

[U] A. They should have asked for a unit. Send me a unit. Send a Military Intelligence trained unit. Don't send me parts and pieces. I want a battalion and I want a company whatever the right number is. Two companies. Whatever the requirements. The right requirements are, but send me a unit and let me give the unit the mission to do this.

[U] Q. And whose responsibility, Sir, would it have been to ask for that unit?

[U] A. I believe that the person that should have brought to General Sanchez's attention would have been Colonel Pappas. He's the one that should have identified that as a requirement, and----

[U] Q. Do you have any idea why he didn't or did he and it was just not acted upon?

[U] A. I believe that his solution was that he was going to get enough assets from the Army to perform his mission, so he put out a request for forces, to the Army which the Army responded to by sending him Soldiers from MI units all over the world to fill his void. I don't think that was the right way to do it. I think a more effective method would have been for Colonel Pappas to turn to one of his battalions. Remember he had nine battalions assigned to him.

[U] Q. Yes, Sir.

[U] A. To turn to one of his battalions and said this is now your job. Figure this out. You're the one that has responsibility for this. The battalion already

has its staff elements, its NCOs that know each other. And leave it to that battalion to build the structure that they needed. But you could have had that battalion staff available for the leadership that would have been required.

[U] Q. So, you would place this responsibility for ensuring unit integrity of the JIDC on Colonel Pappas?

[U] A. In this instance.

[U] Q. Yes, Sir.

[U] A. Now broader than that we as a Nation if we need JIDCs then we should state so and staff them. And say where specifically we're supposed to get the bodies for these. We create all these joint organizations and then pay for them out of hide because nobody wants to increase end strength. Well then, we shouldn't create these additional things.

[U] Q. All right, Sir. Okay, Sir, moving on to the next finding, Major General Geoffrey Miller, it says, did not introduce harsh techniques into Abu Ghraib interrogation operations. In the follow-on, JTF GTMO Training Team had a positive impact on the operational management of the JIDC. However, the report also found a disconnect between the strategic orientation of the JTF GTMO Team and Abu Ghraib orientation on tactical operations. Can you comment, Sir, on the difference between the strategic and tactical orientations?

[U] A. Yeah, at GTMO their focus was on the detainees that had been captured in Afghanistan. Their perspective was to develop strategic long term information from those detainees. Their tactical information had long since perished.

[U] Q. Right.

[U] A. It had been a long time since they had any tactical operational intelligence of any value. Generally, operational intelligence value perishes within 72-hours or so. The further you get away from 72-hours, the less valuable information you're going to get from a detainee. That's of operational use. You know we talk about 'actionable intelligence'?

[U] Q. Right.

[U] A. Well, actionable intelligence is perishable. So where is the Army's cache? You know where is the leadership of the insurgency? Where were they living? What's their address? That stuff perishes very quickly. Especially in an insurgency. So, you need to get that stuff very quickly and that should have been the focus and was the focus at Abu Ghraib. Whereas in GTMO it was well, , what ~~was~~ we've the

[U] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] MG FAY: Yes.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, do you have any questions?

[U] MG FAY: No, I do not. Thank you.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir, the time is 1415 and the tape-recorded portion of this interview is concluded.

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Testimony of **MAJOR GENERAL GEORGE R. FAY**
Was transcribed and certified by (b)(6)-2 & (b)(7)(C)-2
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

D4

Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was taken on 14 October, 2004 at Fort Monroe, Virginia,
Between the hours of 1600 and 1745
By (b)(6)-2 & (b)(7)(C)-2
Department of the Army Inspector General Agency, Crystal City, Virginia,

[U] (b)(6)-2 & (b)(7)(C)-2 The time is 1600. This tape-recorded interview is being conducted on 14 September, 2004----

[U] (b)(6)-2 & (b)(7)(C)-2 October.

[U] (b)(6)-2 & (b)(7)(C)-2 What did I say? September. 14 October, 2004 at Fort Monroe, Virginia.

[U] Persons present are the witness Lieutenant General Jones and the Inquiry Officers (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may directed by proper authority.

[U] Upon completion of this interview, I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] LTG JONES: I do.

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information, Before we continue I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] The first finding is: There is sufficient evidence to reasonably believe that the personnel on the CJTF-7 staff, principally in the OSJA and CJ2X, had knowledge of potential abuses and misconduct in violation of the Geneva Convention at Abu Ghraib. This knowledge was not presented to the CJTF-7 leadership.

[U] Sir, do you recall who specifically in the Office of the Staff Judge Advocate and in the CJ2X had this knowledge of potential abuses? Do you recall them by name?

[U] A. First of all in the SJA, Colonel Warren and his people, due to the fact that the investigations and the reports- ICRC that they saw, had sufficient evidence to determine that there were— abuses going on.

[U] Q. Uh, huh.

[U] A. In Colonel Warren's statement I think he concludes one of the things that he failed to do was to inform the Commander. The C2X people were people who habitually went to Abu Ghraib. I concluded by association and the numerous trips they did to working with the interrogators, that there were abuses on-going. They should have gained knowledge of them and reported accordingly. I didn't get further down into that, but I concluded that after reading the numerous witness statements and the interface that they had with the prison systems.

[U] Q. Okay, Sir. Did you have any indication that General Fast as the CJ2 was one of the folks that was aware of these potential abuses?

[U] A. No, I didn't. I had indications that when she was aware, then she reported to Sanchez. Again I found that— in her position and what she did, based on the environment she was in, she was so tied up during that period of when she came in the country through January with establishing the intelligence operations and trying to pull the Coalition and the Agencies-interagency-together, that she didn't focus on interior—on the interrogations.

[U] Q. Uh, huh.

[U] A. I know some people find that hard to believe, but she spent more than 50% of her time supporting CPA.

[U] Q. Yes, Sir.

[U] A. And, and she did yeoman work in trying to get— the intelligence and the priority of the intelligence requirements out and make it seamless from tactical to strategic. Establish the communications, with little or no resources.

[U] Q. Right.

[U] A. And, and I think that's somewhat true of most of the staff. I think their focus was not down—I think it was towards the CPA and fighting the counter insurgency.

[U] Q. Yes, Sir.

[U] A. That's basically, what I found.

[U] Q. Sir, you mentioned that when General Fast was apprised of abuses that she reported it immediately. Which circumstances were those?

[U] A. One of the first ones I saw was the 4 November case where the— it was also classified as 'Ghost Detainee' where they— the detainee was brought to Abu Ghraib by OG8 personnel, early morning hours. Subsequently died there at Abu Ghraib. That was reported to her by Pappas by phone. She reported to Sanchez. Sanchez directed her to contact the Chief of Station and to ensure an investigation is being done. , and that's what she did. The CID—and not only the Agency then started an investigation, but also did– the CID because of their death.

[U] Q. Is there any other instances, Sir, that you're aware of?

[U] A. There was another case I believe it— at Cropper.

[U] Q. Uh, huh.

[U] A. I don't know the specific details reported. And in that case, she also reported it and that was passed up to CENTCOM because the Iraqi Survey Group did not come under the CJFT-7. So that was reported back up to CENTCOM to investigate and was subsequently investigated.

[U] Q. Okay.

[U] A. That's two specific I know of in that timeframe.

[U] Q. Yes, Sir. Okay. Okay, you cleared up the question that I had. And specifically the knowledge of potential abuse and misconduct that they had, you mentioned the ICRC report and the allegations that were in that report of the nudity and the women's underwear and that kind of thing. Was there other misconduct that they were aware of that you believed that they had?

[U] A. If— when you look at the magnitude of incidents in these reports—have you see the list of CID investigations?

[U] Q. Yes, Sir, all of them.

[U] A. If you go back and look at that, and the compilation of all those incidents at Bucca, Cropper, Abu Ghraib, point of the spear, the relative magnitude of those would tell a person that probably we've got more than— more than a disciplined Army should have.

[U] Q. Uh, huh.

[U] A. And that was my basis of saying there were sufficient indications of warning due to the magnitude. The one instance where the—you know there is a Ghost Detainee thing where they finally found the three Saudis in Abu Ghraib. Well that's not normal. And, so it tells you that, it-it begs the question who's paying attention. For that number of abuses and the number of investigations on-going. You know there is also other deaths that happened. And how they were reported. Got to come up through somewhat the JAG channels. And I can't believe that that was accepted as a norm.

[U] Q. Uh, huh.

[U] A. And so to me I—I known there has to be something that led to the Sanchez memos of October and December about the treatment of civilians with dignity and respect. I know there was a lot of focus on the loss of US Soldiers and who was killing them and who—and what the support base was and so forth. And that's kind of troublesome. Now you also have to put that into context. There was a lot of pressure at the time to find Saddam Hussein. So, the two sons were killed in July up in—up north. But then up to about six weeks before Saddam Hussein was captured plus the advent of Ramadan coming in there which expected increased attacks on US Forces and so forth, kind of focused their attention on that and then immediately after the capture of Saddam Hussein, then there was a lot of work done to take the information they found and actually resulted taking down 50% of his support base. So that's where their focus was at the same time all of this was going on at

Abu Ghraib, October-November. So, but having said that, I think that the magnitude and the conditions at Abu Ghraib starting to improve later in the fall. And if that was to be the central location which all prisoners were filtered through, it begs a lot of the questions, are we doing it right.

[U] Q. Yes, Sir.

[U] A. And that's where was very little leadership there and direction. But I think there's people and I think in those two particular offices of the staff— maybe not at the senior staff level, but the people within those staffs had to see the reports. They may not have had the experience or maybe by the fact like in the SJA you had the UK guy, Australian guy, and they have a different perspective than a US person. But that led me to believe after reading all the statements, that— there was probably information there that they knew. Either accepted it as being the norm or they actually knew that something was gonna happen and they'd discipline the commander.

[U] Q. Yes, Sir, was General Sanchez aware of the CID cases and—

[U] A. I don't know. I know he was in certain cases. You know of the deaths to ensure that they were being investigated. And then I—and two, I don't know if in case—he was reviewing—a number of cases outstanding and so forth that based on the number of deaths that were in custody.

[U] Q. Right.

[U] A. Because there were several.

[U] Q. Yeah. Yes, Sir, okay. And, Sir, you indicated in the finding that this knowledge was not presented to the CJTF-7 leadership. What evidence caused you to come to that conclusion?

[U] A. Mostly Colonel Warren's statement. He said he didn't tell the Commander.

[U] Q. Okay, you're in particular referring to Colonel Warren's statement. Okay.

[U] A. That and the fact that I interviewed Fast she didn't know about it.

[U] Q. Okay, Sir.

[U] (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 Sir?

[U] A. Garner. Was it?

[U] (b)(7)(C) I think so.

[U] A. So when (b)(6)-2 & (b)(7)(C)-2 got—things weren't moving, weren't going right so they sent Bremer up there and— they created the CJTF-7. (b)(6)-2 & (b)(7)(C)-2 you know he got in there and he said I don't have the people. I don't have telephones. I don't have contact with anybody. I got nobody to work for me. And—there's nothing here. So Bremer then gets appointed and gets sent there and some of the issues was let's make him successful because we're gonna turn this back over. Bremer came in with a direction to, do certain things. And so, now Sanchez will tell you he didn't work for Bremer. And if there was any conflict of what he was trying to do, of course then he raised it to CENTCOM to Abizaid. And said you need to—this is against what we need to do, and they'd work it out. Similarly with the inter-agency folks that were there. From G8. One team was pulled together to get things going. So there are a lot of things that had to be established because there were no— Directives, MOUs, how its all gonna work together. So they had to—they had to build from scratch. So, they had to set the foundation. Build an organization which none of them had ever been-a CJTF-7- before. They had fought the tactical fight, now they're focus is at the strategic level. And that blurring in an insurgency between tactical and strategic— was very tough. And, and a lot of them could not see the differences. And some of the things that may appeared to be tactical actually were strategic.

[U] And, they were faced with that day in and day out. Several—you know it took the Chief of Staff who would have had an oversight and directed responsibilities we know of in an Army or a Corps or whatever, kind of moved—moved over to support directly and they moved what was the Corps TAC and that element from the C2, C3, over to support the CPA. They split another piece over here with the DCG to fight the war. And then you see—okay, Sanchez and his guys, what does he got? He's also got a preliminary staff here to try to work all these policy and all these other issues. So they're—they're—because of resourcing and the way they were set up and the missions that they were given, they torn in three different direction. And oh by the way, you know, all the Division guys and Separate Brigades went –morphed from twelve to eighteen separate Brigades. All these people are waiting for guidance, direction, and so forth. So it was really a— a challenge. And so, the primary guys across –across the subordinate staff starting to focusing up here and by default the lower level guys and—had to work all these other things. That's why I say the lower level C2x, which was created by the way, there's just a couple of those folks left, came from the V Corps things that had to built up. The residual SJA guys kind of running the show because the leadership is pretty occupied fighting the war, supporting the CPA, trying to figure out—try to get the Coalition guys to come on to establish a customs capability. You know border protection. Border Police. Training the Iraqi Army. Trying to, partner with the Iraqis that were left to work an intelligence system. Trying to figure out how to morph this so that eventually they can appoint a interim— Prime Minister or whatever to Iraq. And so that's what ate them up. And so what limited time they were able to get out and see what was happening they couldn't see it because, it wasn't there at the time. Okay. Jones is coming down to visit not a problem. So he was up there with them. You know you go back to decisions made Abu Ghraib, which sit right on the seam between two units. So who's in charge of physical security? It's not the 3rd ACR on this side or the 82nd on this side. You know, because it's a seam right there and seams in military doctrine means we have no—we don't own that piece of dirt. We have what's outside it, but I only come around 50% of my side and fifty—and that's why— initially and then also in that period they put in it a sector which you know Abu Ghraib has a history. That's where Saddam Hussein tortured and killed all the people. No control outside. No engagement with the community through Civil Affairs or other people. Nobody focused outside the wire because I'm inside the wire. This is my piece of dirt. So it was not set up for success in the selection either. Which we also looked at..

[U] So those are some of the things when— you know when Casey went in, we saw early on and he started fixing when he went in. When Abizaid went in, he said, you know, it's another thing. You gave the CJTF-7— not only JTF responsibilities but also ASCC, Army Service Component Command and ARFOR responsibilities. And it's one person and he's a Three Star. By the way, he is a brand new Three Star. He didn't complete two years in command as a Division Commander. So, it said in my report he went from commanding about a fifteen thousand person Division to a Coalition of a hundred and eighty thousand people. With all the different countries, to pull that together. It overwhelmed him. Overwhelmed the staff.

BY b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, you've fairly thoroughly laid out the context in the environment they were operating in. Given that, but at the same time giving folks duties based on their position or their rank or whatever, did General Fast's action or inaction regarding these interrogation policy memos in your view rise to the level of negligence or inefficiency?

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir. Sir, going on to the next finding. Lieutenant General Sanchez and Major General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations. Sir, can you tell us what specifically you feel that they failed to do to provide proper staff overnight? And if you would like you can take them one at a time.

[U] A. As I said in there, in hindsight what I would have done because when you lose your Chief of Staff and now— you've got the C1 responsible for people and ensuring they've got backfills, MP shortages and other things. The C2 is setting the intelligence requirement collection priorities. You've got the C3 overall in charge of detention operations with some execution responsibilities with the Provost Marshal. You've got the C4, responsible for the support—logistics and so forth. You've got the DCG establishing priorities not only for the detention facilities but for different base camps and getting the LOGCAP in and construction and so forth as working with the C4. And so, there's the separate Brigades under the—when Wojdakowski come up.

[U] You know they could talk to him but then there's no Chief of Staff running around. So then, they have to go to individual staff sections and talk different issues. Not one person to come to. So in hindsight my perspective was—Sanchez should have made one person in charge of detention and interrogation facilities—operations for the Go To Person directly working for him. Because you had Bucca, you had Abu Ghraib , you had Cropper, you had the MEK facility, you had the holding areas of divisions. You've got a number of these things going on. Different oversight levels. Which the staff responsibilities then were separated and no Chief of Staff to help direct that. And you've got Wojdakowski over here prioritizing. And initially Abu Ghraib was a temporary facility. So he gave it very little priority. And quite frankly in the summer everybody was living in pretty shoddy conditions. But seeing it as a temporary he was not going to invest long term in LOGCAP and other things. Then Sanchez visited and he said I'm not gonna have my Soldiers living like that. Let's get some thing in there to fix it.

[U] There were some equipment issues with different MP units coming in, in terms of normally different types of MP units have crew served weapons and so forth and different things. These guys moved about. Some of them had their equipment linking up with them, so they needed more mobility and crew served weapons to set up. So some of those things had to be fixed. And so—but it—it did not fall upon somebody, one person, to oversee those things and get things moving. It fell upon different—from my opinion different elements of the staff to do different things, so it did not become, without the Chief of Staff, a synchronized effort, to fix things. A lot of it was defaulted to subordinate commanders, Karpinski and Pappas, because they were Commanders; and Karpinski had the detention operation. Pappas had the interrogation/intelligence collection mission through out the theater. So, they by default, that become decentralized. Okay? And as they got visibility obviously the hindsight says I probably would have done it different and with the one person of compatible rank based on the magnitude of the effort I think I said, the direct—the Pappas's and the Karpinski's and so forth of the world to get things right. And it—otherwise it just got sporadic attention because of their focus other ways.

[U] So I found that looking back once they made a decision to make a strategic collection point of that magnitude, they should have put one person as the Go to Person in charge.

[U] Q. Uh, huh.

[U] A. We kind of got at that for Abu Ghraib when he appointed Pappas for the—actually appointed him for Force Protection kind of reasons and the MPs still had the inside the wire security of the prisoners. The Intelligence guys still had the interrogation piece but he was looking then at the base camp security.

[U] Q. Uh, huh.

[U] A. Probably the genesis of that issue was putting it on the seam of two units.

[U] Q. How about General Wojdakowski, Sir, and which staff did he fail to provide proper oversight for and what should he have done?

[U] A. See, I think he was partisan to that because without the Chief of Staff the DCG has gotta do some things. Again in hindsight what I would have done, you had two new Brigade Commanders. They both swapped out the end of June, the first part of July. He made some—first of all he never really accepted the command relationship of the 800th, that TACON, TACON relationship. But in fact, it did not matter as much is because those people worked for him. They're separate Brigades although it went from twelve to eighteen. That formed a subset of separate Brigades worked for the DCG. So, what he had was two new commanders who were not experienced in the theater. Of which, he could not have known their level of experience. One came out of the War

College and one came out of the RC ranks. They probably demanded more oversight and direction.

[U] Q. Uh, huh.

[U] A. Than they were given. Now on his behalf he was again trying to get the LOGCAP set up. All the logistics, which fell so far behind the rapid advance to Baghdad, the immature lines of communications and securing those lines of communications and establishing the contracts to get the supplies moved forward. Our equipment having just gone through the war needed a lot of attention, getting the parts in. So he was, you know he—he let those Commanders execute their mission in a decentralized way. Whereas I think in retrospect, he probably should have brought those two and gave them guidance that is more specific because he was in their direct chain of command.

[U] So when I look at those perimeters of responsibility for execution of the mission direct or indirect, the clear and consistent guidance and resourcing to do their mission, I found that in retrospect those two units needed more attention.

[U] Q. Yes, Sir.

[U] A. And you had other MP Brigades and other people—because I don't think that the two commanders as they showed up at the same spot at the same time neither had the experience or leadership to execute the mission.

[U] Q. And should General Wojdakowski have recognized that given the circumstances?

[U] A. I think he should have.

[U] Q. And----

[U] A. I mean if you think about it, he had just fought the war, gone through the prep, the training, now I've got two new Commanders. Didn't go through go the fight with me. I've got a lot of things on my table. But—they were probably—one probably didn't accept any guidance or leadership. The other was probably hungry for it.

[U] Q. Uh, huh.

[U] A. And how he recognized that, I'd have to put myself in his head to try to figure it out, but it appeared to me that those were issues.

[U] Q. Yes, Sir.

[U] A. He had two new Commanders in theater.

[U] Q. And the one that didn't want guidance was General Karpinski and the one that was hungry was Colonel Pappas.

[U] A. Karpinski— from my experience and opinion is one who wanted the position of command but did not want to go accept the responsibilities that go with it.

[U] Q. Uh, huh.

[U] A. And you'll see very many times in her statements and I don't know if you've read those or not.

[U] Q. I have, Sir.

[U] A. You find her sometimes back in Kuwait. She left some of her staff back there. She had to be told to move her staff into Iraq. Different times she had to be told to go check on like the MEK facility up at—you know you had those Iranian freedom fighters and so forth. And that gives you—and then Sanchez had a confrontation with her about stepping up and taking charge. You're in charge. You've got this mission. How can you let the Soldiers be like this? And so there were indications there that she was weak.

[U] Q. Okay.

[U] A. And it was obvious that (b)(7)(C) was weak and she didn't do anything about that. But she—you know she sent him back for two week R&R in October. Brought a Colonel—

[U] Q. (b)(6)-2 & (b)(7)(C)-2 .

[U] A. (b)(6)-2 & in from Cropper who's obviously fat, dumb, and happy up there because he's got a mixture of detainees at the MP Battalion. So it's pretty easy for him. He comes in and just sets up shop for a couple of week and then brings Phillabaum back.

[U] Q. Uh, huh.

[U] A. Probably not the right thing to do.

[U] Q. Sir—oh, go ahead.

[U] A. In Pappas' case, his experience led to the lack of making a decision to making somebody in charge at Abu Ghraib. You know he had other Battalion Commanders and so he could have moved in there and set up a clear chain of command to execute that mission.

[U] Q. Uh, huh.

[U] A. Especially as it grew to the number of people there. Overwhelming the intelligence.

[U] Q. Sir, was General Wojdakowski's failure to recognize this need for perhaps additional oversight, in your view, did that rise to the level of negligence or culpable inefficiency?

[U] A. I think it was a shortcoming on his part. I don't think it was negligence.

[U] Q. Uh, huh.

[U] A. Primarily because of the magnitude that he was faced with. Overall faced with.

[U] Q. Okay.

[U] A. Your span of control if you had 12 Brigades or 18 Brigades that you had just moved up to, plus he was now running another set of the staff to fight the war. So, again it became another issue with him of the responsibility and no time to do it.

[U] Q. Yes, Sir, did you run across any evidence that a request was ever sent up for another Flag Officer to come in and serve as the Chief of Staff?

[U] A. Okay, well another Flag Officer came in. Oh, you mean—for the JMD you had a Two Star Marine Chief of Staff.

[U] Q. Uh, huh.

[U] A. That was—he came in, in August.

[U] A. I think Fay saw that down at Pappas' level and below. The pressure was in my opinion, and as General Kern and I look at it, was not abnormal. But as it morphed down to the lower levels, the interpretation of what the commander's intent was of what is it you need to do in establishing a battle rhythm and the standardized procedures was not there. So it had become as you went from CJTF-7 staff to the 205th Brigade staff down to a multitude of interpreters they were getting a magnitude of I need to know this, this, this and this, and nobody is stepping up for them in saying—and Jordan certainly didn't. Stepping up and say this is what—these are our priorities. You find that in any professional line of command but when you got to Abu Ghraib there was nobody there.

[U] Q. Okay, Sir.

[U] A. And that's where the pressure point manifests itself the most.

[U] Q. Is the emphasis that General Sanchez placed on the intelligence community, did you feel that was appropriate given the circumstances?

[U] A. I did.

[U] Q. Okay.

[U] A. And it—because it goes back to – his mission was to build and support operations. He's in a war. Gone now from managing a division to a coalition of a hundred and eighty thousand. Trying to find out who are these people? What is their support base? Who are their leaders? You know where are they going to come at me next? What's their tactics and so forth and as those changed daily he was getting Soldiers killed. He put a lot of emphasis on intelligence. And rightfully so because in an insurgency intelligence becomes probably more important than operations. And, you know that's why I say Fast stepped up after assessments and said well we have our hands full. We've got have these things here and she requested back to CENTCOM to get communications since they didn't have—to get, fusion capability to appease the intelligence effort. To establish a joint interagency task force to start to pull that together and get the equipment so they could reach back to the—what do you call it? The Intelligence Exploitation Center when they had something said what are you getting back there and send me—who is this guy? What you see is happening from all the sources as they tried to fuse the intelligence. So there were a lot of other things going at the same time.

[U] A. The problem with—and you heard this a while ago. The problem with the procedures with dealing with ICRC which Abazaid also said in his testimony in May, the system is screwed up. We have no system for dealing with the ICRC in this environment as we went into it.

[U] Q. Uh, huh.

[U] A. So there was—I understand what was said as far as—a lawyer escorts the ICRC people. But our doctrine heretofore doesn't deal with a strategic detention facility.

[U] Q. Right.

[U] A. We talk about in the linear doctrine, the holding areas as you know, battalion, brigade, division and evacuation back. And so when we created a centralized detention facility, in Guantánamo and now in—Abu Ghraib we did not—address access by ICRC. We know it happens and so forth. But there is no given staff responsibility to interface with them. If you—up in Baghdad if you talk to the people, the International Red Cross person, the relationship with the CJTF-7 staff was all good and worked with them and so forth. But when you got to the lower people running around the country they work and—down to give that to the brigade level. Sometimes it didn't come up. That was later fixed. At the time as you established a facility, they didn't give specific responsibility to interface at the lower levels. Okay? And it was probably not handled well.

[U] Q. Uh, huh.

[U] A. And some of that is the culture of—even in the international community, we saw it in the Balkans, I appreciate what you're telling me but this is what my rules say and so forth.

[U] Q. Uh, huh.

[U] A. Or whatever and then the access piece is not always clear. So we probably as a Nation need to address that better and I think that's already being worked with the Secretary of Defense establishment, the Assistant Secretary for— what is it? Policy and so forth of which now deals directly with the International Red Cross and going towards setting how we as a Nation would deal with the International Red Cross.

[U] Q. Yes, Sir.

[U] A. But that led us to also say though, that—as you get—if you use that as another indication of warning that should trigger something with somebody on the staff. Gets out and takes a look and advises the Commander. Because where there is some smoke there may be some flames there and we didn't see the Inspector General doing anything. Going out there and checking on that. It was left to the legal review. And the comments back down, they went down and said what do you guys say, ah, it's not true. You know? Well, okay. But some of it probably was.

[U] Q. Do you recall who the IG was then, Sir?

[U] A. No, I don't.

[U] Q. That's fine. Did you have any indication that General Fast or General Wojdakowski were aware of the ICRC reports?

[U] A. Fast first saw it in December of 2003 or got—became knowledgeable of it about the same time Sanchez did.

[U] Q. Okay.

[U] A. I don't know if Wojdakowski did.

[U] Q. Okay. But you-----

[U] A. But I think it was passed back down to Karpinski to sign and respond to.

[U] Q. So General Sanchez was made aware of the ICRC reports. Was that before or after the pictures came forth?

[U] A. It was right before.

[U] Q. And what was his reaction?

[U] A. He didn't have a big reaction because you'll remember that Warren had advised him it wasn't true. It was not substantiated. Based on what his guys had told him, this couldn't be true. So based on that advice, and at the same time they had just captured Saddam Hussein so they were spinning in a different direction. So he said okay I got it.

[U] Q. Okay, Sir. Was his failure to take action, did that rise to the level of negligence or culpable inefficiency?

[U] A. I don't think so because so because that was—he had trust and confidence in those guys who advised him and they said it couldn't be true. Or it was not significant in terms of what they— was claimed. And so he moved on to other things.

[U] Q. Yes, Sir. Okay. All right, the report talked at length about the operational environment contributing to the problem, between the V Corps transition to CJTF-7 without being fully resourced; the support to the CPA exceeded the going-in operational plans. And of course the operational plans themselves envisioned a SASO, support and permissive environment. Given that, how does this relate to the actions that were taken by senior leaders in the theater at this time? It kind goes back to this negligence and culpable inefficiency standard that I keep harping on.

[U] A. Yeah.

[U] Q. But in particular how does that relate to the actions of General Sanchez and General Wojdakowski and General Fast?

[U] A. They were still operating off the base plan.

[U] Q. Uh, huh.

[U] A. The base plan obviously was given to them by CENTCOM as a subordinate element. So—I think the—not as much with Sanchez and his team trying to execute the mission given to them—when the CENTCOM Staff and CFLCCC went away, there was no revaluation of the campaign plan. Or the assumptions went into it. I think that's fault more of CENTCOM than it is Sanchez. Now he—what they did, was they used FRAGOs to adjust and so they did take—obviously, this is not a true change made, they rewrote—mission orders using—still using the sequence of fragmentation orders, which was kind of normal because they still had the CJTF-7 staff there. So—and quite frankly they didn't have time or the resources to sit down and rewrite the campaign plan. So they did the best they could with what they had to work with.

[U] Q. Uh, huh.

[U] A. Subsequent to that now that you've got a Four Star in there and separated—the kind of Title 10 ASCC responsibilities from the warfighting responsibilities, because you've got MEFs now executing the war fight in the subordinate units and direct oversight and now you've taken the burden of doing that away from them and giving that to Casey and working with the Coalition in doing that. So that was probably the right thing to do. So that changed. Abizaid recognized quite quickly you know. He stopped—last summer he stopped losing people because now you gotta redeploy all these people. We've got a fight on our hands. So it was recognized and he started taking some action. He said I need a Four Star in there. I need two Headquarters. I need somebody in charge of detention and interrogation operations and so fixes then become pretty clear. He saw some of the same things we saw as we started looking at it. And he implemented them. So that's good. And I think you see the results today and the progress than they were from Abu Ghraib to—the division of responsibilities. And the level of responsibilities again a Four Star with experience.

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, did you want to ask any overarching questions before we—we're sort running out of time.

[U] (b)(6)-2 & (b)(7)(C)-2 I have a few , Sir.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Could you give us a sense of CFLCCC's involvement down in Kuwait? I mean we have—we have Karpinski's brigade which is TACON to CJTF-7 but owned by the—I believe the 377th TSC in Kuwait at that time under ARCENT General Taguba and General McKiernan. I understand the—the confusion, or not the confusion, but the support difficulties, the TACON relationship established. That's pretty clear in the report. Are there any specific responsibilities that the Commander of the 377th had as General Karpinski's direct boss or CFLCCC that contributed to some of these failures?

[U] A Yeah. I f you read the order, and I don't know if you have or not. The relationship—well when you established CJTF-7 CFLCC disbanded. So CFLCC the Combined Forces Land Component Commander went away. Okay? But CJTF-7 becomes the supported Commander in the Iraqi Theater of Operations. That also was true for ISG which I didn't recognize. There was the Theater Support Command and the relationship as the plan was, the detention facilities were never planned to be the magnitude they were and so they retained that TACON responsibility—because eventually there would be a term employment to hand back over to the Iraqis. And so okay I'm done with that. Envisioned to be no more than about six hundred people-detainees-after the end of hostilities. And that Brigadier General Hill also said that in the May timeframe. Other than the MEK guys up to about three thousand in one compound. And so it was never envisioned to that magnitude. So what they wanted to do was retain—the 800th intact so that when it went theater they wouldn't take their assets and move them here to Kuwait, which they could if they're being intrusive if they're TACON. So they kind of re-held that TACON relationship based on the previous plan. And for a lot of the other forces, the SOF forces the TACON relationship, keep the Commander informed, execute your mission, worked out okay. But with this Commander who reluctantly moved her staff up there, still saw—envisioned that—responsibility for the detention facilities but still working for the 377th, so she used that kind of both ways. In turn she says, CJTF-7 you gotta support me. I need this, this, and this and so forth. But in reality her support base by a TACON relationship is the 377th. Because the logistics support of units that are TACON still rely upon the parent unit. That didn't happen. And then the 377th changed out commanders and so forth. They didn't see any role in supporting the 800th. They—that's a CJ—that's in theater. So that's where the confusion and it really convoluted relationships that came into being.

[U] And I asked Sanchez about that. I said, you know you had so much problems here, why didn't you go back up for change in relationships? He said, well I didn't see it to be a need because I've a General Officer, they've got a mission to do. I expect her to do it. And—I didn't have any other problems with other people who were TACON to me. But in this case Karpinski played both sides against the middle. You know, ran around the country. Whatever she wanted to do. Because I think that's why she kept going back to Kuwait, to keep that relationship going. And then it really manifests itself at the end with who does my efficiency report.

[U] Q. Would it be fair to characterize General Sanchez's perception of this problem with General Karpinski then as a leadership problem with his Commander versus a Command relationship with the TACON versus OPCON?

[U] A. I think so. Accepting ownership of the mission and doing the things she has to do to execute that mission. I don't think she ever accepted ownership.

[U] Q. One of the reports we read basically stated that there were failures on the part of CFLCC—in planning for insurgency. From the information you've given us today they were clearly out of that picture in about the June 2003 timeframe.

[U] A. They diverted back to Doha for the responsibility for Kuwait and Saudi Arabia and/or of the RSO.

[U] Q. So in that instance they had no planning responsibility for anything going on in Iraq post about the June 2003 timeframe?

[U] A. It was something like 14 June I think. You gotta remember the relationships between those two staffs soured a little bit. Because V Corps guys, seemed they were left holding the bag. No resources. No—now—now I'm the CJTF-7 and nobody is giving me the resources. In the meantime some of those guys who were at Doha left. You know? If you look about the CFLCC staff they were pretty well equipped. You had J.D. Thurman there. You had a lot of good horses to help McKiernan be the CFLCC Commander over Wallace and/or the MEF, the Marine guys. And so they were staffed accordingly to do that. When they diverted and went back to Doha a lot of those people left. At the same time the guys in Qatar said our mission is kind of done now. We're into a stability and support operation. We're out of here. All those Air Force guys and other people. So—the appearance was the only people you had left was Abizaid and McKiernan and Sanchez and his staff. Everybody else could come new.

[U] (b)(7)(C) do you have any other questions?

[U] (b)(7)(C) Just one last quick question, Sir, and it has to do with Major General Geoffrey Miller's visit.

BY (b)(7)(C)

[U] Q. In the September timeframe.

[U] A. Yes.

[U] Q. When he came over and the finding in the report was that his visit, his team, did not introduce any harsh techniques into the theater.

[U] A. Uh, huh.

[U] Q. But that some of his team members—inadvertently validated some techniques that may be in violation of the Geneva Convention. Specifically use of nudity, and the presence of dogs. Did you see any failure on Major General Geoff Miller's part to ensure that that inadvertent validation of interrogation techniques, that that not happen? Did he have any role?

[U] A. No. In fact I think it was done only—it wasn't—and I think Fay's report found somebody from the GTMO team was not reporting.

[U] (b)(7)(C) Thank you for that.

[U] LTC JONES: Trying to remember it all but more I tried to forget.

[ ] (b)(7)(C) Sir, you described a complex, violent and horrid environment where CJTF-7 Soldiers, units, and leaders prosecuted a counter-insurgency operation and performed above all expectations. As part of that your investigation laid out numerous facts and made findings pertaining to activities regarding alleged detainee abuse. Sir, in your opinion as a senior leader, did the actions of any senior leader we discussed today or others you may know of, in your investigation, constitute a failure to take appropriate action, a dereliction of duty, or potentially criminal misconduct?

[U] A. Not above the Brigade. With the exception of--I'm--I was looking at the Chain of Command, focus. Now if some of the staff in terms--okay, and I looked at and elaborated what Barb Fast and Sanchez--but this is an intelligence issue. In my opinion, although great officers I think there was--Colonel Warren--probably was negligent in terms of keeping the Commander informed based on what I saw and the counsel he provided. A tough thing to say based on what they were doing, what they were trying to do, but I think he--his Staff gave him bad advice and I think he accepted it, and his level of experience having been in-country, and his knowledge of the Geneva Convention and things could have led him down a different road.

[U [ I think there's bad decisions and bad acceptance of the missions and how they executed the mission by both Pappas and Karpinski. But I feel that the senior leadership that was the chain of command albeit responsible as we see in the Army for things that happen and do not happen, in terms of what they're responsible for in hindsight they could have done some other things, but I think they did tremendous work based on what they were tasked to do.

[U] (b)(7)(C) Thank you, Sir.

BY (b)(7)(C)

[U] Q. All right, Sir, do you have anything else you wish to add?

[U] A. I think the comment we just talked about having visited there and been in Afghanistan, I think we owe a debt and gratitude to a lot of Soldiers who are doing the right thing. Even in Abu Ghraib there were NCOs on the dayshift who were doing the right thing. There were Soldiers within the $320^{th}$ MP Battalion--they all worked right there in Ward 1a, 2a, and 1b and 2b. There were others there that were doing great work. Trying to do what was right. I think the incidents of misconduct should be taken as that and let justice do its right course for those people that revealed that they have done clearly criminal acts in what they did. I think our Army has learned about this. I think we'll move forward. We've already implemented a lot of changes that will make things better. But I think we as a Nation have got to wrestle with some of the issues out of this. It's not solely Army. It's how we get into theater and a culture such as this and how we learn from it, and, how we grow leaders to adapt to it. And, we have to look at our leaderships in all components in what we prepare them to do as they get into an environment like this. But, you know I think our values are still sacred. I think our focus on leadership and getting competent and confident leaders is still critical. Presence of leaders at critical points and times is still important and I think that marked discipline is doing what's right when nobody is there. And that clearly didn't happen at Abu Ghraib.

[U] I think there was some--decisions in hindsight which could have been done better. But when you put it in perspective-- and the counsel that the leadership is receiving, I think they had to make some tough calls and they made the tough calls and that's the way it is. And we move on. The two things that bothered me the most, we didn't set this unit and these leaders up for success and we're part to blame. Because we dealt them a situation of which their level of experience-- their level of resourcing was inadequate for us as a Nation to put them in harm's way. And not give them appropriate resources that they needed. And that's a travesty. And so the fall out of all that is people are trying to point fingers. What people did or didn't do is we have to look at ourselves because we're part of this also. We as a Army. We as a Nation, a joint community, didn't step up and help them when we should have and that' s terrible.

[U] MS Wright: Yes, Sir.

[U] LTG JONES: And we can't forget the impact that this has had on Soldiers, families, not only the General Officers that are still left out there hanging to dry, but look at all the other folks of different echelons. Those kids I talked about in the 320th-- some of the others in the 519th-- the 800th MP Brigade-- they talked about taking the flag down because we kind of stood in the Brigade because it's got a rich history and people have served in that, so this has impacted a lot of people and the unit-- I think the coin now in Abu Ghraib and those who are serving there have something that said, something about recovering their honor.

[U] (b)(7)(C): I'll go ahead and start the read-out then.

[U] LTC JONES: Okay.

[U] (b)(7)(C) We are required to protect the confidentiality of IG inquiries and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone except your attorney, if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of this record, to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] LTG JONES: Testimony yes. Social Security Number and my address no.

[U] (b)(7)(C) That is normally redacted, Sir.

[U] LTG JONES: Because that's--we get more credit cards coming in that we want now.

[U] (b)(7)(C) Right. Okay, Sir. Do you have any questions?

[U] LTG JONES: No, I hope I've answered your--what you needed.

[U] (b)(7)(C) Yes, Sir.

[U] LTG JONES: And you know if you need me--to see me again just holler.

[U] (b)(7)(C) All right, Sir, will do.

[U] LTG JONES: I'll be glad to do it. I've lived this now for three or four months and--, I think we did a reputable job in trying to get--based on the time that we had to try to figure out--, ascertain the--the facts and now we just gotta move on.

[ U ] (b)(7)(C): Yes, Sir. All right, Sir, the time is 1745 and the tape-recorded portion of this interview is concluded.

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Testimony of **LIEUTENANT GENERAL ANTHONY R. JONES**
Was transcribed and certified by (b)(7)(C)
Certified Court Reporter, Department of the Army Inspector
General Agency, Washington, D.C.

D6

Interview of Colonel Kevin Charles b)(6)-2 & b)(7)(C)-2 Director, School of Advanced Military Studies, Fort Leavenworth, Kansas taken between Presidential Towers, Crystal City, Virginia, and Fort Leavenworth, Kansas, on 22 October 2004 between 0919 and 1603 hours, Colonel (b)(6)-4 & (b)(7)(C)-4 and Colonel b)(6)-4 & (b)(7)(C)-4

Persons present are the witness, Colonel b)(6)-2 & b)(7)(C)-2 and the investigating officers, Colonels (b)(6)-4 & (b)(7)(C)-4 and b)(7)(C)

This investigation was directed by the Inspector General of the Army concerning allegations of impropriety against senior officials assigned to the Department of the Army.

An Inspector General is an impartial fact-finder for the directing authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases disclosure to other persons may be required by law or regulation or may be directed by proper authority.

Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your social security account number to help identify you as the person testifying, you have been previously provided with an explanation of the Privacy Act. Do you understand it?

(b)(6)-4 & (b)(7)(C)-4 Yes.

COL (b)(6)-4 & (b)(7)(C)-4 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue I want to remind of you the importance of presenting truthful testimony. It is a violation of Federal law to knowingly make a false statement under oath. Do you have any questions before we begin?

COL b)(6)-2 & (b)(7)(C)-2 No.

COL (b)(6)-4 & (b)(7)(C)-4 Please raise your right hand so that I may administer the oath.

[The witness complied, was sworn, and testified as follows:]

Q. For the record, please state your full name.

A. My name is (b)(6)-4 & (b)(7)(C)-4

Q. Social security number if you want to provide it?

A. My social security number is (b)(6)-4 & (b)(7)(C)-4

Q. Your rank and grade?

A. My rank and grade is Colonel/0-6.

Q. Position and title?

A. I currently have the position of Director, School of Advanced Military Studies, Fort Leavenworth, Kansas.

Q. Address?

(b)(6)-4 & (b)(7)(C)-4 A (b)(6)-4 & (b)(7)(C)-4

Q. And a phone number?

A. Phone number is (b)(6)-4 & (b)(7)(C)-4 The defense switch network prefix is (b)(6)-4 & (b)(7)(C)-4

Q. Okay great, thanks Kevin. I'm going to turn it back over to (b)(6)-4 & (b)(7)(C)-4

(b)(6)-4 & (b)(7)(C)-4

Q. Okay there, Colonel (b)(6)-4 & (b)(7)(C)-4 could you please describe your duties and responsibilities when you were assigned to 3d U.S. Army?

A. I was assigned to 3d United States Army Coalition Force Land Component Command in July of 2002 and I was assigned as the Assistant Chief of Staff, C-5/Plans. As such I was responsible for directing the development of the supporting ground major operations plan from the CFLCC in support of the Central Command Campaign Plan 1003V.

A. V Corps -- well as best I can recall, V Corps was under the operational control of 3d Army as CFLCC when the Corps Headquarters arrived in theater. Prior to its arrival in theater, in the theater of operation and by that I mean when it arrived in Kuwait -- prior to that, V U.S. -- the relationship between V Corps and CFLCC was direct liaison authorized as they were -- as they, V Corps, or it, V Corps was apportioned to Central Command and 3d U.S. Army under previously existing war plans for contingencies in the region in Southwest Asia.

Q. Okay so when did V Corps then arrive and become operational, if you will, under CFLCC?

A. January 2003 although they had a small element that remained in country of Kuwait. Prior to that, the Corps Commander arrived to stay in January, pardon me, of 2003.

Q. Okay, now bear with me if you will as I try to put this in perspective here. I want to talk about a distinction between ARCENT and CFLCC.

A. Okay.

Q. Is there a distinction between the two?

A. There is only in doctrine and in doctrinal roles. We were one in the same headquarters and one in the same staff.

Q. How did those doctrinal roles differ?

A. As ARCENT, 3d U.S. Army was responsible for what is called the doctrine administrative control or ADCON of all Army forces in the theater mainly providing combat support and combat service support functions for all Army forces and Army support to other services as was outlined in standing memorandas of understanding and standing directives within the Central Command that are an outgrowth of the Army's Title 10 responsibilities. For example, as ARCENT we were responsible for -- as the Army force we're responsible for providing all veterinary support to Army units and other services in theater just as an example, as the ARCENT role.

Q. Okay, did those doctrinal responsibilities change or were moved to, say, Forces Command, when you became, I'll call it, a war fighting headquarters?

A. No. All those responsibilities remained with 3d U.S. Army in its multiple roles when operations actually began. We retained the role of the CFLCC, the Land Component Commander as a war fighting headquarters and as ARCENT or as the Army Service Component Command responsible for sustaining all Army forces and providing all Army support to other services.

Q. I guess I'm going to ask the next question; were you resources to adequately and properly perform both missions or was it not significant?

A. I will say, yes we were and of course that is -- my only caveat is that as always, relied upon the ingenuity of both individual soldiers and officers.

Q. Okay. Let's go on a tangent for just a little bit but directly related to this; how would typical requests like RFF, Requests For Forces, and those type of things move through the chain-of-command? For example, you're getting ready to move and to become on the ground in January of '03. You're identifying subordinate tasks and recognizing the need for additional resources and so are your units that are now subordinate to you such as V Corps. How did those RFFs move and what was the lines of authority/responsibility for those to be worked?

A. The request for forces process came about, to my understanding, as a -- directly from the Office of the Secretary of Defense. I was informed by friends that instead of taking one decision to execute a time phased force deployment list developed for time phased force deployment data, that the people within the Office of the Secretary of Defense wanted to exert more control over the flow of forces into theater. Therefore we would continue with a request for forces process. So all of the forces that were apportioned to us had to be packaged, if I may use that word and presented as requests for forces. The process began with my headquarters for Army ground forces. It was the responsibility of MARCENT to package and send forward Marine forces although we had a role in that since once the Marines became on the ground they were under our tactical control as the land component command.

As far as Army forces; between my headquarters and V U.S. Corps and the various divisional planners, it would go back through the time phased force deployment data, then we would in essence task organize divisions or regiments for other force packages in terms of combat, combat support, and combat service support forces. We would cross-check what was needed with the tasks that we expected the division or that force package to accomplish for us. We applied all of our best experience in education and logic to the development of each force package. When we at the CFLCC were in our role now as the ARCENT, developed the RFFs for all Army forces, officially that information left our headquarters to Central Command from Central Command that RFF went to Joint Forces Command. From Joint Forces Command it would go up to the joint staff and down to the service components underneath the Combatant Command of Joint Forces Command, specifically, U.S. Army Forces Command. Now we also, of course, sent our requests directly to Forces Command in an effort to keep them informed because there was a great deal of planner-to-planner cross talk as this process continued throughout operations so forces command would never be surprised and that was what you would expect. We also informally kept the members of the Army staff informed so there would be no surprise there but the official flow of the request for forces would go from the Army Component at Central Command, ARCENT, 3d U.S. Army; to Central Command; to Joint Forces Command; from Joint Forces Command as a total staff package, to the Joint Staff into the Office of the Secretary of Defense and where in the Office of the Secretary of Defense, himself, approved every single RFF.

Q. Got it. Let's move forward. Let's talk about the OP plan, your OP plan specifically and here's where I'm a little bit concerned and if you think I'm drifting too close to stuff that may be on the end here, shut me up.

A. Sure.

Q. We talked about the phases of the operation.

A. Okay.

Q. Clearly Phase III of the plan was major combat operations. There were conditions that basically -- where you would identify when transitions would occur between

A. As best as I could find, again in all of the notes that I kept that decision was taken sometime in June because it was very, very rapid. We had, as best I can recall, about 3 weeks to work -- the transfer of authority [unintelligible word, counter 542] was on the 15th of June and as I leaf through the notes that I kept, we began working with the V Corps on this task organization at how we would man the joint manning document and how many officers from our headquarters we'd move up to reinforce theirs, 3 or 4 June as best I can recall. We'd received indications prior to that but nothing official.

Q. Okay.

A. I mean official in terms of, 'here's a central command order.' I don't remember actually ever seeing one of those. I'm pretty sure there was one because -- but all those would come through the C-3.

Q. Well why V Corps?

A. They were the only -- the only headquarters we had.

Q. Okay so ----

A. First MEF was going to be relieved and withdrawn because the Marines felt the need to reestablish the MEU afloat -- MEU, Marine Expeditionary Units afloat and get their Marines out of Iraq as quickly as they could. Eighteen Corps was engaged in Afghanistan. I Corps -- there was not enough -- since I Corps was dependent on -- mostly on reserve components to the completion of their headquarters and there was some reluctance at that time to continue the call-up of multiple reservists. 3d Corps was apportioned to other places as I'm sure you know. So there was no other Corps headquarters to hand over.

Q. I guess my question then is, why a Corps headquarters for the standing joint force headquarters?

A. What was explained to me was the headquarters was there, it understood the situation, it was established in country and the regional combatant commander wanted to reestablish his Army component command headquarters so that we would revert back to a regional focus and continue to provide support to all of the -- to the theater vice just being a sole focus on one country.

Q. Okay let me argue with that for a second, if you will.

A. Sure.

Q. You indicated earlier that you never lost your responsibility for being the AOR force provider/sustainer but it sounds like ----

A. Not force provider.

Q. Okay well -- roger but in other words you never lost your AOR view?

A. We weren't formally relieved of the responsibility but it was understood that we would focus more on being the war fighting headquarters, CFLCC, and risk was taken knowingly in terms of looking at joint task force for the Horn of Africa and CJTF-180 in Afghanistan. That was a deliberate decision taken at the Combatant Command level. Those two other joint task forces understood they were a supporting effort and did not have to worry about -- well, we were not going to have to worry about them and actually European Command picked up some of those ARFOR responsibilities for Afghanistan.

Q. Okay.

A. And JTF [unintelligible word, counter 605] since it was [unintelligible word, counter 604] I beg your pardon, HOA -- primarily a Marine operation and so MARCENT picked up the responsibility of the support -- ADCON, if you will, of Joint Task Force HOA.

Q. Let's talk a little bit more about V Corps, basically along this same line, okay. Why not have the CFLCC become the JTF?

A. We were for a short period of time.

Q. And what caused that to change? Was there a ----

A. To the best of my understanding it was a desire on the part of the regional combatant commander to reestablish his theater so that his components were looking at the totality of his theater and that one of his components, specifically the ARCENT, 3d Army, was not tied down into just one country.

Q. Okay.

A. Now I will tell you that it is my personal belief that that was a mistake. The argument that I was making as the C-5 was that we should continue on with our additional estimate that phase 3-like conditions were going to last for 125 days and that we should continue the force flow and that our headquarters, as the CFLCC, should not leave.

Q. Okay.

A. Obviously that didn't -- obviously what the C-5 and CFLCC had to say was listened to and 'thank you very much but we have to take the decision in another direction.' I think it was a mistake.

Q. Now how did -- if you were involved in this, what was to be the means and method for standing up V Corps as the CJTF? Who -- was this a CENTCOM help kind of thing or was it kind of left up to V Corps or how did CFLCC get involved or, you know, what -- describe the game?

A. Part of the battle handover -- part of the battle handover of the responsibility of being CJTF-7 from 3d Army CJTF-7 -- 3d Army CFLCC and V U.S. Corps was the establishment of a joint manning document.

Q. Okay.

A. And we spent long hours looking at the V Corps staff and looking at what augmentation the staff would need both in terms of personnel and in terms of adjudication systems and all that. There were some rather heated discussions about the number of people that would go from our headquarters. Our headquarters made up the 3d U.S. Army CFLCC Headquarters had received a number of augmentees and so one of the decisions that was taken was that those officers who were on temporary duty orders of 180 days or 179 days whose time was not up, whose role -- whose functions were not needed were solely JTF responsibilities would transfer; either remain in Baghdad or move to Baghdad to augment the V Corps staff. Now I was not involved in

British method of basically going to soft caps. Is that correct?

A. That is correct.

Q. To confirm [Tape 1, side A abruptly ended mid-question].

[Tape 1, side B picks up mid-question.]

Q. ---- CJTF role?

A. That decision was taken at the Central Command level.

Q. Central Command level. Okay now did CFLCC agree with that because you had talked about some staff interaction about missions and your Op plan and joint manning and stuff like that? I just wanted to see how that kind of process worked. In other words was it top down driven or was there significant dialogue and --

A. I do not know about commander-to-commander dialogue. I know that colonel-to-colonel -- the colonels with whom I spoke on the Central Command staff within the J-5 and the J-3, I made it know that my recommendation was -- and that which I delivered to my boss was that we're leaving too soon and as tough as it was going to be we needed to stay. Now, again, I do not know what took place commander-to-commander but I do know that subsequently we were directed to begin the handover process that would culminate on the 15th of June.

Q. Was that your assessment -- your assessment, was that based on kind of what you had seen in terms of when you were writing the op plan, Elipse II, I believe you called it and you saw this, I think the way you described it was a bunch of responsibilities and tasks?

A. It was Eclipse.

Q. Oh Eclipse.

A. Lunar Eclipse.

Q. Okay.

A. Eclipse II and yes, because as we war gamed potential enemy courses of action, one of them was an insurgency. Now although none of us, I hasten to add, thought that was very likely, it was one of the potential outcomes and we felt that given the depth in our headquarters and it's understanding was that was -- that was the recommended command and control course of action [unintelligible word, counter 735] given the complexity of what we knew is also -- I mean at the same time we were also engaged in discussions with the establishment of the multi-national division that would relieve First Marine Expeditionary Force and so there was handover within handover within handover and that was adding to a level of complexity that I thought was just you know, based on my own personal judgment was just a little too much to bear for the Corps Headquarters even reinforced with folks that were coming out of ours. Again, I don't know of anything about the commander-to-commander decisions and I'm sure there were absolutely great reasons for why the decision was taken to do the handover.

(b)(6)-2 & (b)(7)(C)-2 Do you know the reasons?

A. No I do not but I'm sure there must have been some because we did it.

Q. At the colonel-to-colonel level or at the staff level to staff level-to staff level what -- did you ever gain any impressions from what CENTCOM felt about your feelings or your staff's feelings or at the planning level feelings regarding this?

A. I can't tell you across the entire CENTCOM. I can tell you that the conversations I had with two guys in particular, we were all in violent agreement because we just didn't know what was going to happen as far as the enemy was concerned.

Q. Now it ended up being an assumption, I guess, that the security environment would be relatively benign. Was that, in fact, an assumption that was a conscious assumption that was placed as part of a transition of phase 4?

A. No, we would never have made that assumption.

starting conditions for their planning and so our war gamed end state conditions became assumptions for them upon which they began their planning for Phase IV(b) and (c), part of the CENTCOM campaign plans. They were doing an awful lot of work. Now were some guys and gals working harder than others? Sure, but no one was -- none of those folks were slacking.

Q. No, no.

A. As far as the duration of their stay, my understanding and again this could be flawed, was they were on orders in accord with service policies. I cannot confirm that. I remember someone telling me that.

Q. And what happened to that organization once the CJTF stood up then?

A. They were formally disestablished prior to the stand-up of the JTF and their officers were incorporated into CFLCC and ORHA. After -- upon handover of the JTF role from the CFLCC to V Corps, those Army officers who were still in theater, who had been extended for a year rolled over and augmented the V Corps staff.

Q. One last question on this particular -- was their a viable construct for a standing joint force headquarters? In other words, an organization on paper that would have transitioned from CFLCC to CJTF? In other words, with, you know, a three-star general/two-star general, a chief of staff, various organizations? In other words what I'm describing is the honeycomb of organization that would actually be this headquarters or was it something that was just going to evolve or mutate out of either CFLCC's organization or out of, in this case, V Corps?

A. I will tell you I never saw a proposed table or organization save those that we at CFLCC developed. Was there another existing headquarters? At one point in time at the beginning of our planning effort and I would put that at the beginning of phase IV planning for me was June and July of '02. We assumed there would be a headquarters that would follow on. As it became more and more clear to us that we were going to hand over the phase IV mission to ourselves as JTF-7, that realization kind of sank in and we began to change the Outlook within our headquarters that it was going to be us and we began the work of looking at who was our -- and I'm going to use an acronym now and I can't remember what it stands for but it was WWIAS. I'm sorry I can't remember what it stands for but essentially that was the process by which the Army used to augment our headquarters, our headquarters in 3d U.S. Army that made up CFLCC as well as the joint manning document that gave us our Marines and our Air Force guys and we began to relook that and how we can sustain it until we learned that we were then going to hand over the JTF-7 mission to V U.S. Corps on the 15th of June and then the focus of effort became how can we transition those billets over to V Corps to augment their staff to make then a joint task force staff. As the multi-national divisions developed, how would those multi-national divisions embed staff officers into the joint task force staff and how would they establish liaison officers, which were also pretty much staff augmentation from the joint task force.

Q. Okay, I have a quote that I would like to get your comment on here. "They went into phase IV with the perspective that the Corps would augment the JTF and it would function effectively. The CTF-7 structure on 14 June would have been adequate for stability and support operations and for drawing down the force." Is that a fair assessment?

A. Who said that?

Q. I don't know.

b)(6)-2 & (b)(7)(C)-2 It's in a report ----

Q. It's in a report and I don't particularly have the quote. It was from a high-level official.

A. Could you read that one more time please?

Q. Sure. "They went into phase IV with the perspective that the Corps would augment the JTF and it would function effectively. The CTF-7 structure on 14 June would have been adequate for stability and support operations and for drawing down the force." It might have been the Schlesinger Report.

A. No I've got the Schlesinger Report open and I haven't found that.

Q. Okay I have another quote here that I'd like for you to comment on from the Jones Report. "In accordance with the CENTCOM Oplan, CFLCC would have had to provide operational logistic support to Army forces from Kuwait. No attempt was made by CJTF-7 to coordinate a change in this command relationship." Why did CFLCC retain OPCON of units, such as 800th MP Brigade, after the 15th of June?

A. I have no idea.

Q. Okay.

A. My understanding was that we would perform those tasks that were related to combat service support. Why would we retain command of 800th MPs? I have no idea. The Kuwaitis would not let us establish a PW holding area in their country. So as I recall the 800th operated inside Kuwait until we crossed into Iraq and then as we set up holding areas, they moved forward into those areas.

Q. Yeah the relationships for a lot of the units were either OPCON or TACON.

A. Check.

Q. And 800th was one of those units and they were TACON -- they became TACON to CJTF-7 upon 15 June let's say but that still implied that all the administrative, logistic, and all those other types of support tails stretched back to the 377th Theater Support Command and -- which was under your -- let's say you're under CFLCC control.

A. That's true.

Q. Is that good or is that something that ----

A. The discussions that we had as best I recall was that TACON, under the doctrinal definition of TACON, that gave JTF-7 all the authority it needed to specify directive directed tactical tasks that the brigade would perform and that by retaining operational control, that's ultimately at CFLCC, that would relieve JTF-7 of the responsibility for providing CSS.

Q. Okay.

A. It made sense at the time because JTF-7's zone of control was the country of Iraq and CFLCC had responsibility for Kuwait and the only port that we were using, CPORT, was in Kuwait. So it made sense at the time to do it that way. We had a similar arrangement if we'd have conducted operations out of Turkey between Central Command, European Command and CFLCC that there would be units that were providing combat service support in the north under -- and the European Command would retain operational control and as those units would come into Iraq, and again this was all war gaming conjecture because obviously we didn't operate out of Turkey into Northern Iraq, but those units when they came into a zone of CFLCC would come under the TACON of CFLCC or a CFLCC designated force [unintelligible word, counter 088] so that would have been the 4th Division. So we applied this similar construct to relieve JTF-7 of the burden of providing combat service support and TACON in our estimation give the Commander, JTF-7 all the authority he needed to direct tactical tasks.

Q. Okay we'll come back to that in a little bit and talk about that a little bit later down the road here. Just to set me straight as we move into this next phase of questions and discussion here, if I were to draw a task organizational chart depicting theater C-2 during phase III it would be from CENTCOM to CFLCC to V Corps?

A. Correct.

Q. Now what about after 15 June when V Corps became CJTF-7; could you describe it how that chart would look?

A. Yeah it went from CENTCOM to JTF-7.

Q. Where would CFLCC be?

A. On the same command line.

Q. On the same command line as?

A. Because we did not have a command and control relationship with the JTF-7.

Q. You had a coordinating ----

A. We were coequals. We were coordinating.

Q. You were co-equals?

A. [Affirmative response.]

Q. And so you were ----

A. Just like the relationship with JTF 180 in Afghanistan.

Q. Okay.

A. Under Central Command's command and control on the 15th of June it went from Central Command to CFACC, CFLCC, CFMECC, CFSOC, JTF-7, JTF-180, JTF-HOA.

Q. Okay and like you said, CFLCC and the Air Force are all off on the side?

A. Check.

Q. Okay. Now moving on here; in June of 2003 when CTF ORD was established a vast increase in responsibilities began. CJTF-7 grew to 180,000 and was charged with phase IV task and direct support to the CPA. What planning assumptions did CENTCOM provide for the direct support to the CPA to either you or through you or during the standup of V Corps as the CJTF?

A. I do not recall any specific planning assumptions that I took from Central Command. I can tell what the assumptions that we made were because I've got them right in front of me.

Q. Okay.

A. They were: policy guidance and end state will evolve over time; Asymmetric strength to CFLCC forces will exist in phase IV; non-DOD agencies, e.g., Department of Energy, Justice and State will contribute to Iraq recovery operation; some essential infrastructure (rail, airports, power generation, bridges) will be damaged due to combat operations; national organization, non-governmental organizations will request CFLCC support with at least force protection CSS in humanitarian assistance, supply distribution; coalition forces will participate in phase officially left theater and came home. He would just -- he did leave theater and came home for, you know, 2 or 3 weeks then he would go back forward for 2 or 3 weeks and he would continue like that.

Q. Okay. I'm going to run through a series of quotes here. I'll ask you just to comment on all of them kind of we're somewhat starting to wrap up a little bit with some follow-on questions here. This -- I quote "The level of authorities and responsibilities of a command of this magnitude, i.e., the CJTF-7, is normally vested in a four-star level Army Service Component Command under a COCOM."

A. I disagree.

Q. Okay.

A. A JTF can be any level of command by our doctrine. It doesn't necessarily have to be a four-star. As a matter of fact I would offer that it's only on rare occasions that it happens to be a four-star. Look at Korea; that was a result of the end of the war and in that case the Army component in Pacific Command is a three-star. In the Central Command AOR, the JTF was a three-star because that was the headquarters that we had. It can be a four but I wouldn't say that's routine.

Q. Okay. Second quote, "We note however, in terms of its responsibilities CJTF-7 was never fully resourced to meet its -- to meet the size and complexity of its mission. The joint staff, CJTF-7, and CENTCOM took too long to finalize the JMD," and what they're pointing to is that the JMD was never finalized until December of 2003.

A. I would offer that it wasn't filled until about that time. It was finalized ----

Q. Okay.

A. ---- when I left Baghdad on the 15th of June, I don't remember now but I know what the JMD said. We all -- we and let me be more precise; officers on the V Corps staff, officers on the 3d Army CFLCC staff, we all knew what was supposed to be there. We also knew that all those guys and gals couldn't come out of 3d Army headquarters and rotate into V Corps headquarters so hence the joint manning document.

Q. Was it really a joint manning document or was it an Army manning document?

A. It was an Army manning document.

Q. Okay.

A. The argument that the Navy component and the Air component made was that JTF-7 didn't need to have a Naval or an Air component because their headquarters; the Air Force and Navy respectively, could do those tasks for JTF-7 and JTF-7 wouldn't have to worry about it. JTF-7 was primarily a land operation; therefore it was primarily going to be Army. Even our Marine brothers were dragging their feet on filling billets that we thought were going to be Marine.

Q. So then the responsibility for vetting the document and putting it all together fell to CFLCC and fell to the Army guys to make it happen?

A. Yeah.

Q. Okay.

b)(6)-2 & (b)(7)(C)-2 What did CENTCOM say about all of this?

A. CENTCOM -- there wasn't one voice talking for CENTCOM on this. The understanding became that, 'Look there's a joint manning document and JFCOM, you're supposed to be the joint force provider, you've got to fill it.'

Q. And so JFCOM did nothing?

A. To what I saw that is an accurate statement. The only folks that I saw reinforce V U.S. Corps were folks that came out of the CFLCC staff and those primarily had come from the original gang from JTF-4. We did have other officers and NCOs and soldiers who were on our staff who stayed with V Corps on a volunteer basis to fill joint manning document billets.

Q. Okay somewhat of a hypothetical; given the fact that serving on a joint staff or a joint organization such as a combatant commander, you have a variety of officers from different services that interplay with each other and it doesn't matter about what the level of support is coming from where but the staff expertise that they bring to the fight, whether it be a CB from the Navy, ALO from the Air Force, an Air Force engineer for base security and stuff like that; why do you feel or can you provide a perspective as to why CENTCOM didn't force this -- was not more forceful in trying to get the proper joint staff on board for this organization?

A. I don't know that they weren't more forceful, I really don't.

Q. Okay.

A. They could have been out there beating the bushes and beating up everybody on the joint staff of Washington. I just -- I don't know.

Q. Did CFLCC try to beat up Army or go to CENTCOM with their concerns or did they --

A. Yes ----

Q. Okay.

A. ---- both Central Command and to the Army staff.

Q. And what blow back did you all receive from that?

A. On individual levels was, 'Guy, don't you realize that the Army is real busy and we have other headquarters we've got to fill,' and official responses were, 'We've tasked out to units and we're in the process of adjudicating the requirements and all that's going to take time but we will fill you.'

Q. Okay, got it.

A. But see the Army staff, quite rightly, is sticking only to billets that were tagged Army on the joint manning document and I don't blame the guys and gals on the Army staff for doing that.

A. In all honesty, guys, I don't want to go into that. That's outside of my realm.

Q. Okay.

A. I'm not going to comment on political stuff.

Q. Okay. You do have an opinion though obviously.

A. Not one that I care to share under oath.

Q. Okay. Let me move to two quotes from the Schlesinger Report, if I could.

A. Okay.

Q. First quote is, "Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a handoff of detention operations to the Iraqis. If commanders and staff at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003 as difficulties with the plan were readily apparent at that time." Can you provide any comment or perspective on that?

A. I'm trying to find -- what page is ----

Q. That's page 47.

A. Okay. I scrolled past it. I need just a second. I want to read it. [Pause] I disagree with the first line. I do not believe it was clear in July 2003 that there was a major insurgency growing.

Q. Okay.

A. At the time -- when I -- I mean I left on the 5th of July. There was an increase that was -- it was a significant -- yeah because there had been none for a while. Now was there an increase in incidents across the country? Yes. An insurgency implies there was a controlling headquarters or a controlling hand somewhere.

At that time, and I'd like to think that I'm a pretty savvy and educated officer, it was not apparent to me that there was a major insurgency growing. There was in increase in incidents that appeared on one level of analysis as isolated because they were distributed all around the country. The relatively benign environment projected for Iraq was not materializing. Sure, okay. Adjust the plan to what? It was still going to be a stability operation. Stability operations involve elements of offense and defense as well as stability operations in terms of reconstruction and support to NCO's.

Q. You're talking about the phases of peacemaking and peace keeping and their inner-correlation?

A. Absolutely.

Q. What about this; "If commanders and staffs at the operational level had been more adaptive," was the CJTF an adaptive organization the way it was put together?

A. Now we're talking about V Corps ----

Q. Yes.

A. And the V Corps Commander and honestly, I don't know. When I completed the handover of my tasks [unintelligible words, counter 381] I'm not waffling here but I was shifted to other tasks. The major task I had from about the 16th or 17th of June, because in all candor when I got back to Camp Doha, I slept for about 20 hours, was to develop -- first was to develop a briefing for the Kuwaiti General Staff or Joint Staff on what happened and what our projections for the future were in terms of theater engagement strategy and to engage with the [unintelligible word, counter 386] J-5 on theater engagement strategy in a post-Saddam region or era as well as the continued monitoring of the arrivals multinational division forces.

Q. Do you think that the V Corps had sufficient tools to be adaptive?

A. Sure they did.

Q. Okay.

was onboard and I didn't want to appear to be the nosey former guy interfering with the guy who relieved me so ----

Q. Sure.

A. ---- and he didn't' call me so I mean I -- you know, it's just that courtesy thing.

(b)(6)-2 & (b)(7)(C)-2 Hey (b)(7)(C), I want to go back just a little bit while you were still downrange. Did you guys are JTF-7 ever request any additional forces?

A. We never requested more forces than that were already apportioned.

Q. Okay. Was there any request that came up from V Corps or the CJTF after it stood up right before your departure requesting for more forces?

A. Not to my knowledge, no.

Q. Okay.

(b)(6)-2 & (b)(7)(C)-2 Do you know if CJTF-7 ever requested any after they stood up?

A. We didn't when 3d Army was JTF-7. I know that for a fact because that was -- part of my job was force flow. As far as I know until I left, V Corps did not request anymore forces. Frankly guys there were none to be had once OSD stopped the force flow and said 1st CAV wasn't coming that was it.

(b)(6)-2 & (b)(7)(C)-2 Was that kind of like the directive from Washington that you're not going to get any so don't ask for any?

A. No the direction was we're going to stop the force flow because the assessment was, and this was agreed upon by Central Command, that it wasn't necessary to bring the 1st Cavalry Division into the fight because there wasn't a fight.

Q. Got it. So to wrap up this 2-hour conversation, do you have any closing thoughts or comments given everything that we've talked about today?

privacy and reputations of all people involved in them. We ask people not to discuss or reveal matters under investigation. Accordingly, we ask that you not discuss this matter with anyone except an attorney, if you choose to consult one, without permission of the investigating officers.

Your testimony is made part of an official Inspector General record. Earlier I advised that while access is normally restricted to persons who clearly need the information to perform their official duties, your testimony may be released outside official channels. Individual members of the public who do not have an official need to know may request a copy of these records to include your testimony but not your personal identifying information such as your name, phone number, social security number, and things of that sort under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

A. I am happy to have my testimony released save my personal identifying information.

Q. So then your answer would be yes, is that correct?

A. That is correct.

(b)(6)-2 & (b)(7)(C)-2 Do you have any questions?

A. Well since I just named a guy you might want to talk to, can I give him a heads up that you want to talk to him?

Q. No.

A. Okay.

Q. But you can tell us off tape where he's located and how we can get a hold of him.

A. Okay.

D12

Testimony of **GENERAL PAUL J. KERN**
Taken at Fort Belvoir, Virginia,
Between the hours of 1030 and 1245,
24 November, 2004, by (b)(6)-2 & (b)(7)(C)-2 and
(b)(6)-2 & (b)(7)(C)-2,
Department of the Army Inspector General Agency,
Washington, D.C.

[U] (b)(7)(C): Sir, the time is 1030. This tape-recorded interview is being conducted on 24 November, 2004, at Fort Belvoir, Virginia.

[U] Persons present are the witness General Kern and the Inquiring officers (b)(6)-2 & (b)(7)(C)-2

[U] This inquiry is directed by the Inspector General of the Army concerning allegations against senior officials in CJTF-7.

[U] An Inspector General is an impartial fact-finder for the Directing Authority. Testimony taken by an IG and reports based upon that testimony may be used for official purposes. Access is normally restricted to persons who clearly need the information to perform their official duties. In some cases, disclosure to other persons may be required by law or regulation or may be directed by proper authority.

[U] Upon completion of this interview I will ask you whether you consent to the release of your testimony if requested by members of the public pursuant to the Freedom of Information Act. Since I will ask you to provide your Social Security Number to help identify you as the person testifying I've previously provided you with an explanation of the Privacy Act.

[U] Do you understand it, Sir?

[U] GENERAL KERN: Yes, I do.

[U] (b)(6)-2 & (b)(7)(C)-2 You are not suspected of any criminal offense and are not the subject of any unfavorable information. Before we continue, Sir, I want to remind you of the importance of presenting truthful testimony. It is a violation of Federal Law to knowingly make a false statement under oath.

[U] Do you have any questions before we begin?

[U] GENERAL KERN: No, I don't.

Staffs to get the responses that you need. And third, and this truly isn't a lack of the--of responsibility it's the--it does pertain more to the conditions. But the mission that he was given in retrospect, it was the wrong mission and it was never challenged. I was reminded of that in-- when General Abrams, Senior, Creighton Abrams, took over the command of--in Viet Nam, he asked the question what was his mission. He was never given one. So Westmoreland was operating as the Commander of the United States Army-Viet Nam, without a Mission Statement. The first question that Abrams asked when he took over was, "What's my mission?" And it really changed the perspective of it. So that has flavored I guess my thinking in this from what is the Commander's responsibility.

[U] The assumptions that went into Phase IV, that you would be in stability and support and the mission to send people home turned out to be wrong. And in fact he was in an insurgency operation which increased in intensity during that entire peak period and the people that were being sent home needed to stay. Military Police, check points, who were responsible for detention facilities in this particular case and then the Military Intelligence organizations necessary to build the intelligence picture, that was theirs. So that's sort of an overarching statement of the conditions in which he was operating. And then clearly if we had put him through a BCTP type, Battle Command Training Program type exercise I think this would have all come out. The mission and task would have been reviewed in some detail rather than taking a Division Commander, throwing him into a Corps Commander Headquarters, taking away half his staff; and saying you now have a mission as a Combined Joint Task Force Headquarters.

[U] And so the conditions made it extremely difficult to go back and do that kind of a BCTP type analysis. A rigorous task analysis of the missions that would have resulted in answer--asking the questions, should I expect that the number of detainees is going to increase or decrease? Should I have the right--do I have the right command structure? Do I have the right missions assigned to CFLCC and CJTF where we had the 800th Military Police Brigade assigned to one Headquarters and the Military Intelligence Brigade assigned to a second Headquarters with the responsibility delegated to a Deputy. Were those subordinate Brigades?

[U] And that part was not done. Now, while we criticize both General Sanchez and General Wojdakowski on that process, we didn't give them the time or the resources to do it either. And so while we fault them as being the Commander and Deputy Commander, it was much more the environment that we threw

them in. But in the end they're accountable for their command and you cannot take that away.

[U] Q. Yes, Sir. You said earlier in your statement that CJTF-7 was given the wrong mission. What was that wrong mission and who in your view gave it to them? Was it difficult to state it or did it--

[U] A. If you go back and look at General Jones' report and he went back and looked at all the orders and FRAG Orders that were given. It was the basic order that was prepared for Operation Iraqi Freedom which was a phased operation. General Sanchez was given the mission of assuming command of first V Corps. Then within a few days, V Corps being disestablished and reestablished as a Combined Joint Task Force, without a new mission statement and without a new order being given. And so the Phase IV operation of the original mission said that he was to conduct stability and support operations. Support the Coalition Provisional Authority, Ambassador Bremer, and return forces. And that mission statement was not reviewed at that time or asked whether or not it was still current.

[U] Now, implicitly the actions that General Sanchez took it was clear that he understood that he was not in stability and support. That he was in an insurgency and his actions reflected his understanding of that; and his actions to build an intelligence picture so that he knew the appropriate missions to assign to his subordinate commands were in accordance with that. So he behaved as if his mission were stated differently but in fact the mission that he was given was not ever revised.

[U] Q. All right, Sir, can you think of anything specifically that he should have done differently? Either he or General Wojdakowski?

[U] A. I think he should have gone back to originally General Franks and then later General Abizaid and said we ought to restate our mission. And in that staffing function he also should have said, and I think General Abizaid saw this, in the command structure that is created now that he needed to establish a different command structure to conduct the missions both with CFLCC and in support of Ambassador Bremer and the CPA. And what we found is that the mission statement telling him to do both stability and support what became in fact conduct insurgency operations or counterinsurgency operations and the mission to support Ambassador Bremer were unresourced. He did not have adequate resources to conduct both of those missions.

[U] Q. Did General Sanchez----

[U] A. I shouldn't say unresourced. Under resourced.

[U] Q. Yes, Sir, did General Sanchez recognize this and make attempts to fix the shortfalls? In your view did he do that adequately?

[U] A. Yeah, I think he did. I mean he clearly recognized it based on both his statements and the discussions I've had pursuing that with both he and General Abizaid in terms of what they saw happening and then listening to his staff. And the actions he was taking. I don't think he was perhaps adamant enough about really forcing the senior Commanders to restate his mission though and then relook the resourcing of that, with the real mission in front of him as opposed to the assumed mission that in the Phase IV part of the operation.

[U] Q. Yes, Sir. A similar question then for General Wojdakowski. Can you think of what specifically he should have done differently given that he had the responsibility of direct oversight of those two Separate Brigades?

[U] A. And this is very easy to say retrospectively and very hard to do, because I met with him a number of times on other issues during that period. He was overwhelmed with things to do. He should have done, one, the same thing I just suggested as to General Sanchez. As his Deputy he should have got back to General Sanchez and say we need to restate our mission and relook these. These tasks that we've assigned. And I think out of that would have come a new command structure where the MP Brigade and the MI Brigade would have fallen under the same command structure and a single person would have been put in charge of both. In particular when you take it one notch down and--and if you look at where General Wojdakowski was focused we had a staff running Military Intelligence Operations and we had a Commander, MP Brigade, running Detention Operations and they weren't integrated. And that was--that's both a failure of our own doctrine and training I think to bring those pieces together as well as the command relationship that was established there. Not challenging what they had in front of them saying this is not effective.

[U] Q. Sir, you said that they had a staff running intelligence operations whereas they----

[U] A. Well you--if you can find a set of orders that assigns intelligence to a commander at Abu Ghraib I will be amazed. They created a JDIC. That was a staff function. They reported back up through staffs through the intelligence operations. And so the MI Brigade Commander was never assigned a

task or a Battalion subordinate commander of conducting intelligence operations in terms of interrogations. It was assigned to a JDIC which never really grasped the mission. And that was one of our issues with Lieutenant Colonel Jordan, who never acknowledged the fact that he was given the mission. There was no command structure underneath that where you have Company Commanders and First Sergeants overseeing their personnel. And that's really the nature of the way we have done our military intelligence operations almost historically. Where we break them down into Teams and task organize them and they lose that command structure. It was very clear on the Military Police side that you had a MP Brigade which was responsible for detention. It was less clear then on Military Intelligence side who was in charge of interrogations. And it became a staff function rather than a command function. In my view it should have been assigned to a Military Intelligence Battalion Commander.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, let me follow up on that. The answer can be one of two. Who do you believe the JDIC worked for? It sounds like you believe they worked for the CJ-2. Is that correct or did they work for the 205th?

[U] A. Well, I mean we kind of drilled that. They really worked for the Three. Operations are--come under the Three, but it was never clarified that way. Miller was never given that real task of pulling those as an operational consideration to give that mission until they sent General Miller back over there and said you're in charge of detention and interrogation. That was not done.

[U] Q. But at the time--at the time of your investigation, Sir, --

[U] A. It's unclear who was in charge of Military interrogations.

[U] Q. Unclear.

[U] A. Because it was done as a staffing function with information it collected--now they created a JDIC but find an order that says who does the JDIC report to. Where is a Commander involved in that? In that chain of authority. There isn't one. Its reports that are provided through a staffing function.

[U] Q. Sir, if I were to make the statement, the JDIC worked for Colonel Pappas and it was a command function. How would you respond to that?

[U] A. I would--I would have said that that would have been a correct way to do it. I would have rather seen rather than Colonel Pappas that there'd a Lieutenant Colonel Battalion Commander as opposed to a--the JDIC staffing function. And we were creating an organization, the JDIC, which is an emerging doctrinal organization. Not one of which you can go pull out a manual and say here's how you do it. Here's how it's staffed. Here's how it reports. And then we put a Lieutenant Colonel in charge of it who never acknowledged. Who hasn't at least to my knowledge has never acknowledged the fact that he was in charge. The staff, anyone on the staff, we talked to never thought he was. Now--and then Pappas, was given--still had authority and responsibility across the entire Country or Iraq for the Military Intelligence activities. Not specifically for interrogation activities And so I--I never found any order unless you could show me something that said that you know the JDIC reports to the MI Brigade.

[U] Q. Did you have the opportunity to discuss that with Colonel Pappas, Sir?

[U] A. I did not. No.

[U] Q. So you don't have any insight as to what he might have believed as far as his ownership or responsibility?

[U] A. I think he felt ownership for all the intelligence interrogation operations. The JDIC being one of them. But there are no orders specifically that I know of that directly say that. I mean the MI Brigade was assigned a number of missions but they covered the entire operation and then he specifically then was given a second in the FRAG Order that directed him to be in charge of the security. Not interrogation at Abu Ghraib. So you have kind of an overarching order where you would--you would assume that there's an implied mission that all interrogations are to come through him as a tasking. But there's no specific order that says once we created the JDIC that it reports to him.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, the interrogation policy letters that we'll talk about in more detail a little bit later, included language that indicated that the 205th MI Brigade Commander would ensure that the interrogators were trained for those specific techniques. That he was responsible for interrogation plans; that he was responsible for certain levels of approval for certain techniques and insuring that the various controls were in place.

[U] Q. Well one of the challenges we have obviously is a lot of decisions and a lot of events converge around this whole JDIC situation.

[U] A. Right. Yes.

[U] Q. And that's--obviously that's one of the places where we're trying to get greater clarity.

[U] A. Right.

[U] Q. I think we have a pretty thorough understanding of what people did. And what people believed they should have done, but what we're trying to get some assistance on is what folks should have done.

[U] A. The 'should have' one becomes one of interpretation because there is no doctrinal organization processes to deal with the JDIC, and so we were creating that as we were going. I say 'we' the CJTF was doing that. And I think the abilities that General Fast brought into it when she was asked mid-stream to come in and set this kind of an operation up were all done with the best of intentions and the best capabilities that could be brought to bear in there. Where we came up short is since nobody had an established organization or chains of command is how that the pieces were to fit together. And we further complicate that when you bring in the CIA and other organizations who would intervene in this process periodically who were not in that chain of command either with the ISG piece completely set aside reporting to CENTCOM.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, what responsibility in your view did General Fast have to establish that chain of command or chain of authority at the JDIC?

[U] A. In my view she had a staff function to provide military intelligence, analysis, and advice to the Commander. And the Commander then has to--a staff officer of any rank cannot write an order unless it's delegated to them and it was never delegated to the C-2 that you can sign an order to do that. C-3 normally is the person who is issuing orders. Not the C-2. So she was doing the staff analysis, building the structures, making the recommendations and doing it. And I think as you've reported and found reported that there was a distinct distinction between the two. They never really did come together where the C-3 picked up any staff integration requirements. So, okay, the C-2 says they need X number of people to man the JDIC

what officials such as General Sanchez and General Wojdakowski knew at the time?

[U] A. That's a difficult question. And if I could just put a footnote on it. I just had, yesterday, spent briefing the Abu Ghraib findings to a group out in the West Coast. And the former Secretary of Defense Bill Perry was there. And he asked me the question. He said, "Did anybody highlight what would happen after the Baath Regime was taken down and the Iraqi Army was defeated in terms of insurgencies and potential for detainees et cetera?" And I said, "Not to my knowledge." I wasn't part of the early staff planning so I don't know what occurred in all of those discussions nor did I find any of that in our investigation. And his comment was, "Going into the Balkans when we sent the 1st Armored Division in we spent an awful lot of time discussing that that was going to be the outcome, insurgencies, detention operations, et cetera." Which raised another set of questions to me did that occur. And I don't know that it did. And I think our focus had been on--and this is an assumption I'm making. That we looked at defeating the Iraqi Army as clearly the primary task at hand when Iraqi Freedom was initiated. And so the CENTCOM focus was on Phases I, II, and III. I think there was an expectation and since I wasn't part of it nor did I see any evidence of it, this is an assumption on my part. That it was going to be much like Desert Storm when Phase III was completed. And that you're going to have a large number of EPWs not detainees. And that you would decide what to do with them and then they would go back into the general population after some agreements were made. And we would have peace, stability, and support. Not an insurgency. And so I have to believe that based the way that order was written that's the way the thinking went and that's the way the discussions were promulgated. Not around the fact that there was a highly--high probably that an insurgency would occur and that there would be a large number of detainees who we would have to deal with after the defeat of the Iraqi Army.

[U] I also gave the Kermit Roosevelt Lectures in England this past spring. And I was challenged by the-this was April before I was given this mission. I was challenged by some of the students there. Their War College is the equivalent National Defense Universities. Why weren't we prepared for the insurgency? Why didn't we know this was going to happen? And in the British planning, documents, they had those assumptions. I don't believe they were in ours. At least I don't--I saw no evidence of that. Both by the orders that were written and by the actions that were taken. And so I had in two cases I've been questioned since then why weren't we more prepared for these types of insurgency operations and detention capabilities, and I have to believe based on what I know, that we did not adequately

assess that part of the situation. And so the organizations that ensued were not adequately structured to take into account what happened.

[U] We didn't--we established the CJTF but we didn't have a Manning Document for a CJTF. The orders that sent Military Police home and not prepare for future detention of larger numbers. We did not go out and prepare for intelligence collection operations to determine the leadership and targets of the insurgency. All of which were things that General Sanchez did. But he did it based on events that were unfolding and implied tasks that he had rather than on orders that were given either originally or subsequently.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Yes, Sir, when you speak of planning for this potential insurgency, can you differentiate between CJTF-7, CFLCC, or CENTCOM responsibility in regard to recognizing that potentiality?

[U] A. The way we established the borders between CFLCC and CJTF-7, which nobody I think was terribly comfortable with retrospectively, where CFLCC was responsible for everything south of the Kuwaiti borders and CJTF-7 everything north, and then you had an MP Brigade that was split between them, suggests that CFLCC was sort of cut out of the operational side of it during that period. They were part of it up till the Phase II, Phase III, and in Phase IV were cut out of it. And so the players then are not CFLCC. They're the CJTF-7, the CPA, and CENTCOM. And I don't know--understate that because I think Ambassador Bremer and the CPA played a large role in direction given to General Sanchez. And the amount of time and resources he spent responding to that. In his Mission Statement, going back to Phase IV Operations, said support CPA.

[U] Now, where you start getting into, now okay let's back off to say we're a CENTCOM's role. Now, CENTCOM then had an integrating responsibility across that, but they also had to deal with the Horn of Africa, they also had to deal with Afghanistan, their Headquarters. But between Qatar and Tampa, not being in the Baghdad area, ended up defaulting many of the assessments and decisions directly back then to General Sanchez and Ambassador Bremer working together. Could have and should have CENTCOM played a stronger role? Yes, I think they should have.

[U] The ISG reported to them, not to Sanchez. And so you had a split there of intelligence activities as you suggested with a focus on WMD and other fifty-two high priority targets. It was a great frustration in talking--and I did not

talk with General Franks, but talking with General Abizaid of the lack of cooperation with the ISG in supporting his operations. They had--they were far better resourced at the proper level with the ISG than they were at Abu Ghraib with the CJTF-7 efforts and so that was a frustration that he displayed or he reflected.

[U] And then you had--so you have in the middle of it, Bremer and Sanchez almost co-equals in terms of it, but by the way we operate, we look at the Ambassador role that Bremer was playing as being the "Senior Country Team Leader." And so there's almost an implied role there of subordinating the CJTF to the CPA. I say 'implied' not 'stated' because it said support. It didn't say you're subordinate. And so CENTCOM therefore should have been the integrating Headquarters to play a stronger role in that. But again, we had a change of command and a change of structure taking place there with General Franks departing and General Abizaid coming in. So that--you had lots of transitions. I mean one of the things you might want to do is, is just stack up the number of transitions and changes that were taking place--

[U] (b)(6)-2 & (b)(7)(C)-2 Sir, we've done that----

[U] A. --through out that whole process. And look when these things--when these events occurred and it's all during this period of transitions of Headquarters and lack of clarity as to who was responsible between CJTF-7, CFLCC, CENTCOM, CTF. And so there's a lot of confusion. Now, and that was one of our conclusions. Who is in charge? Not clear. Particularly the interrogations side of it.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir. Sir, some have argued that in retrospect, General Sanchez and perhaps General Wojdakowski should have--and I don't really want to say "seen this coming" but should have seen these indications and warnings that surfaced at the CJTF-7 level that indicated there were problems at Abu Ghraib. And the incidents that were cited in your report included the incident at Camp Cropper, the ICRC Reports at Abu Ghraib, the CID Investigations that were going on; specifically at the point of capture types of abuses.

[U] A. Right.

[U] Q. That were happening then. The death of the OGA detainee at Abu Ghraib and so on. How would you characterize that, Sir? Should--should General Sanchez have----

[U] A. Retrospectively there were lots of warnings. That's what we said. Retrospect is wonderful for all us, right?

[U] Q. Right.

[U] A. My view is that the staff did--there's two things that happened to General Sanchez and General Wojdakowski that were unfortunate. Retrospectively. One, they were overwhelmed with things to do, and under resourced to do them. And so they were trying to divide their attention between supporting the reconstruction of Iraq and support of the CPA and the building of the Government, and conducting military operations. And there were not enough--there was not enough time in the day or people to do both. I'm not even, I think today, with finally with two Headquarters there, we're probably structured to do that. But clearly we were not during this period.

[U] Secondly, we should have taken the time to do a thorough mission analysis and do some rehearsals for General Sanchez taking command of the CJTF. That didn't happen. It would have even been worse if we hadn't saw that in order for General Sanchez to take over the CJTF he had to be relieved by Harold Dempsey. General Dempsey was working for me at the time in Saudi Arabia. And had just been attacked. He just had thirty people killed in the terrorist attacks that took place against his contractor support for MELCO Corporation.

[U] Q. Which corporation, Sir?

[U] A. In Saudi Arabia. This is OPM-SANG that's where General Dempsey was assigned. He was conducting a NEO.

[U] Q. Right.

[U] A. I called up Franks and said, "Hey, time out." He can't pull Dempsey out of here now to go change command with Sanchez. He's got a military operation he's conducting. And Franks said, "Yeah. Okay. I agree." So that was delayed. But we were in a--we trying to push the change of command of getting Rick Sanchez into command of the CJTF without giving him all the preparation that we give every other Corps Commander. And this more, far more complex, than a Corps Command because we were also bringing in the Coalition Forces under the Polish Multi-National Division. So as the CJTF Commander he had to reorganize a Staff; build that command structure; and he did it without the benefit of doing the rehearsals and mission analysis that we would do prior to that type of operation. And perhaps that's a process problem that we have to do in-stride changes, and to really keep all that in focus on how much you're asking one person to do. One staff. Who had just fought a war and half of them had gone home. Wojdakowski happened to be one of the few that remained. He had a Chief of Staff of the CJTF who I never met because he spent his whole time with Ambassador Bremer-a Marine. And you had people

who were coming into organizations like a CJTF without a Manning Document, a JDIC without a Manning Document. And the pace of operations during the entire period is increasing.

[U] The tempo just keeps building and building and building. So instead of detainees going away, detainees are increasing. Attacks are increasing. Who's causing the attacks? Unknown. Have to build the intelligence picture. So while we're critical of the Commander and the Deputy Commander and the staff, they were overwhelmed with things to do. I mean absolutely. I mean I saw that every time I visited. Every time I visited Rick Sanchez before the investigation he was just more and more tired. Okay? And he was just burning the candle at both ends.

[U] Q. Yes, Sir.

[U] A. And he in retrospect--and you look at the documents and he wasn't--it's not that he wasn't paying attention to Abu Ghraib. He was telling people treat prisoners, detainees, humanely. Abide by the Geneva Conventions. Improve the security at Abu Ghraib. So he personally was doing things and seeing things. But what failed to happen is; now the simple fact that the ICRC reports had been put on his desk, I think by an IG independent of the rest of the staffs who might feel some responsibility for not properly resourcing for doing it and say you've got a problem. Well and we need to do something. Never happened. Not until after we had the young Specialist report that there were abuses taking place.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. And of course that wasn't their procedure at the time, the ICRC Reports were being handled at lower levels.

[U] A. Right. And I just think that's flat wrong.

[U] Q. And I believe that General Sanchez changed that process after this?

[U] A. After. Right. He did. And you know we ought to view--and you know I view IGs, my IR organizations, all of our independent review we have as a Commander's benefit. A plus not as a minus. And we should be using organizations like that and also you have another independent organization the Red Cross. We don't always agree with the Red Cross. I mean sometimes they make crazy recommendations that we ought to be feeding people you know filet mignon and living in air conditioning et cetera when our Soldiers are living in the dirt and eating MREs. That's a little bit of an overstatement but sometimes their recommendations are pretty wild. But they ought to be viewed as by the Commander as

General Sanchez' ability to take the right action not giving him that report and say, "God, look at this."

BY b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, whose responsibility would it have been to change that process so that reports did come to General Sanchez?

[U] A. All of our staff's processes are generally under the supervision of the Chief of Staff.

[U] Q. Yes, Sir.

[ ] A. Where they run the staff functions with change processes like that, but in this particular case, as I said, the Chief of Staff was supporting Ambassador Bremer so you end up then with Wojdakowski almost becoming a de facto Deputy and Chief of Staff for the Military Operations. And so you could say that the Chief of Staff should have done that, but the Chief of Staff was assigned something else to do. And so it defaults itself back to the Deputy.

[U] Q. And did you note any evidence where General Wojdakowski was involved at all in reviewing Red Cross Reports?

[U] A. I did not see where he ever got the Red Cross Reports, no.

[U] Q. Yes, Sir.

[U] A. As far as we could determine is the most senior person that ever saw the Red Cross Report before all the abuses became apparent was General Karpinski.

[U] Q. Did she have a duty to notify General Sanchez in your view?

[U] A. She should have. Absolutely. And she had the responsibility for running the detention operations. That was clear. Her Commander, the Lieutenant Colonel, who was relieved, understood and all the Colonels who were in the Military Police, not just the Colonels but all the Military Police, understood that they were responsible for the care, feeding, welfare of the detainees. And when that report came to her, she should have, in my view, taken it directly to Sanchez, Commander to Commander and say, hey, we have a problem.

[U] Q. All right, Sir. Sir, changing tacks a little bit here. One of the findings in the report was "Leaders failed

to take steps to effectively manage pressure placed upon JDIC personnel. Leaders within the MI Community commented upon the intense pressure they felt from higher Headquarters for timelier actionable intelligence. And these leaders stated that this pressure adversely affected their decision making." From our discussions with some other witnesses, the prevailing opinion is those leaders had failed to effectively manage this pressure were pretty much at the 205th MI Brigade level on down. Do you share that view or--

[U] A. Yes. And it has two parts to go with it I mean because there--as I said there was no chain of command there in the MI Brigade. So normally you would expect a Battalion Commander to protect his Company Commanders, and his Company Commanders to protect their Platoon Leaders; and the First Sergeants. Et cetera in the same chain of command. But that's not the way the MI Brigade is organized. You know, they--and I said in one of the earlier discussions we had they never assigned a mission of interrogations to a Battalion Commander and said you're responsible for all interrogations. And so the Brigade Commander who had responsibility for the whole country then became the only one there who had that mission. And that became just a mission far greater than any one person could handle. So the, , you know I just think the way we were structured there failed us.

[U] Q. Sir, whose responsibility should it have been to place a Battalion Commander in charge of the JIDIC?

[U] A. Pappas.

[U] Q. Yes, Sir. Okay. Sir, let's talk a little bit about the TACON relationship between the 800th MP Brigade and CJTF-7. That's generated a lot of discussion amongst folks on whether or not that was a proper relationship and whether it was dysfunctional and did that dysfunction somehow contribute directly or indirectly to the abuses. Would you like to comment on that?

[U] A. I think a lot of the discussion is smoke. I mean if--whether you're TACON, OPCON, or attached or whatever, your command relationship is with a higher, if things aren't going right Commanders need to take it to the next level of their command for action regardless of the relationship. And so, you know, we have this all the time. When you--when it's habitual and you're use to it. Where you have FSB Commanders that are in support of, direct support, but not attached to Brigade Commander. And they take mission statements every single day from a Brigade Commander. If it really gets out of hand, they go back up to the DISCOM Commander. The same thing is true with our Air

Defense Battalions or MI Battalions. We have all these people broken out and the command relationship are TACON or some other, OPCON or attached but not very infrequently attached directly.

[U] In every case my experience has always been if things aren't going right the Commanders go back to their Senior Commander who can implement a change and say, fix it. That's a command responsibility that we all have. And so this thing about TACONs and OERs and all that to me is while from a direct authority and perhaps a legal standpoint correct, from a Command responsibility standpoint I don't believe is pertinent. I just--that's the way I've operated as a Commander through my career. Is hey, if I get some Battalion Commander, for which I have an element working for me, who may have no command relationship, but he happens to be in my area and it's not right, I'll pay attention when he comes in. And says, hey this is not right.

[U] Q. In your view would General Wojdakowski and General Sanchez have responded to General Karpinski if she came to them for help with resourcing even though technically her chain for support actually went back to the 377th?

[U] A. Yes. I think. And clearly----

[U] Q. They argued that they did.

[U] A. And there's a couple of--there is a couple of cases there where Sanchez would say, she should have been standing on my desk saying, "Hey, you dummy, you know we've got some problems going on down here and you need to do something." And that's--I don't think that was very comfortable for her to do that. You know, and so you could fall back, well I really belong to CFLCC. She wasn't getting orders from CFLCC. That the detention facilities weren't in CFLCC's area of responsibility. Nothing that was relevant was in the CFLCC area of responsibility. It was in the CJTF. And so she really didn't, in my view, have a choice but to go to Sanchez and say, "Look you've given me these missions. You have not resourced me to do these missions, and so I've got to change something or you're going to have to move...." She also took no opportunity to move people. She could have moved some of the people who were at the detention facilities up north or down in Bucca to Abu Ghraib.

[U] Q. Why didn't she do that, Sir?

[U] A. I just--that's a wonderful question. It's a failure I believe on her part to say okay, if you're going to go to the Commander, and say, all right, Sanchez, you've given me a mission. It's a mission which I can't accomplish. Here's what

I've done. I've taken every resource that I own and I've given-- I've reallocated them so that I have given Abu Ghraib absolutely the most resources of any place I can. The only place left is the Camp Cropper of the ISG and I can't touch them because they've been directed there by CENTCOM. I need your help. We cannot conduct this mission. He couldn't, I mean he couldn't have ignored that, if she did that. But first you have to do your part say okay what are the resources I have at hand? How can I best reallocate my resources? And then how do I then want when I'm out what do I do next? Only one choice. She could have taken McKiernan with her. Said, okay, Boss, you and I need to go talk to Sanchez. I mean there's lots of ways you could do that. But you can't just sit there and not do anything.

[U] Q. Is that what it appears she did, Sir?

[U] A. In my view.

[U] Q. Did you come across any evidence, Sir, where she went back to the 377th? Her immediate higher Headquarters and asked for help, asked for resources?

[U] A. I couldn't find any. But the 377th is another story. Now I didn't investigate that.

[U] Q. Right.

[U] A. But, no, I dealt with them all the time in my role as the AMC Commander in terms of--that's where all my people were attached.

[U] Q. Right.

[U] A. And they were overwhelmed by their mission of just trying to provide the logistics support into the theater and that was just overwhelming for them.

[U] Q. In your view did they 'fail', and that might be a harsh word, to provide their doctrinally required support of the 800th MP Brigade in terms of logistics and personnel and administrative support?

[U] A. I did not look at that. So--but my judgment probably is yes, they didn't provide it. But I don't know that they were ever asked either. I saw no evidence that Karpinski went back to the 377th, either to the Commander or the Deputy, whoever was there at the time and said, hey, you know give me some truck drivers to go secure this prison. I don't have enough people. I saw no evidence of that, but I didn't investigate that

go back to McKiernan, Wojdakowski, or Sanchez or all three and say this is broken. Fix it.

[U] Q. So in your view was either----

[U] A. And I just don't think she had the wherewithal to understand that.

[U] Q. Yes, Sir, and that sort of leads to my next question, in your view, did General Sanchez or General Wojdakowski, did any of their actions contribute to the dysfunctionality, if that's even a word, or--it sounds like the brunt of that rested with General Karpinski. Her failure to understand what a TACON relationship meant, her failure to have the wherewithal to address the problems?

[U] A. In my view, the brunt of it did. On the other side, we--what we said--I think it was in General Jones' report was that General Wojdakowski having more experience than she did, being senior, should have changed either the relationship or just gone directly to the tasking through CFLCC or some other way, to fix the problems that were occurring. In my view, General Wojdakowski had so many other things that he was being asked to do, it was just one of the many tasks. And since he never got reported through him the gravity of what was going on, he never saw really why it was something I needed to put on the top of the list and go fix.

[U] (b)(7)(C) All right, Sir. Sir, do you have questions along the same line before we talk about policy letters?

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. I do have a question related to --Sir, you brought up some comments about General Sanchez being moved into a position of Corps Commander and then CJTF-7; didn't have the traditional training and familiarization we give our Corps Commanders as part of that process. And the numerous transitions that went on during that period between leaders. I do want to ask you with respect to General Wojdakowski and Colonel Pappas. We've heard similar comments that General Karpinski was a new commander. Colonel Pappas was a new commander.

[U] A. A new commander, right.

[U] Q. Given this big mission not only in Iraq but at this particular facility. In General Wojdakowski's position, I think at the time he was just the DCG of the Corps. He had about nine separate Brigades----

[U] A. Right.

[U] Q. --reporting to him. And I think some people tell us as many as about eighteen under CJTF-7.

[U] A. Right.

[U] Q. Some of the people we've talked to believe that given the situation where General Wojdakowski understands he has two new, Brigade Commanders, one who needs guidance. The other who would be more receptive of it and is seeking it. Both are new to Brigades. Both are new to this combat situation. Both are in this difficult situation at this prison. One with detention. One with interrogation. And with regard to General Wojdakowski's responsibilities as the direct supervisor and Commander of those organizations, did he do enough to recognize he had these two new commanders in this particular situation they were in to provide proper oversight?

[U] A. I mean retrospectively I would say, no, he didn't do enough. But I also don't know if he had enough time to do enough. I don't believe he did. With 18 Brigades, up to 18 Brigades, depending upon when and where you count them. He had somewhat of an overwhelming responsibility. And I can throw in LOGCAP issues, and I could throw in CPA issues, and I can throw in things that are not command but are delegated to him. He was acting both as the DCG and the de facto Chief of Staff within that organization. And I don't know what the other 16 Commanders were throwing at him. That were coming at him from all the different perspectives. The Polish Multi-National Division. What new dimensions that brought into it. You know so we asked him to do an awful lot. Far more I believe then was achievable by one person in a 24-hour day. So should he have done more? To answer that question is blatantly yes. Could he have done more? That's a different question. I know his personality. I don't know Karpinski's personality. But I'm going to guess that a Two Star six foot three male General who had just been through a war and a One Star Female, Brigadier, who just showed up are going to be a little bit different in personalities in how they behave and react.

[U] No, so I know if you want to get Wojdakowski's attention you know you had better cuss at him a few time, stomp on his foot, and stare him right in the eye and say, "Do it." I don't think--you know, Karpinski wasn't ready to do that. You know that's an Infantry Commander who is put in that mission and has just gotten six thousand things to do, and everyday the priorities on them are changing. Whether it Bremer. Whether it's the Poles. Whether it's logistics. Whether it's

operations. Or whether it's detention operations. And so he was trying to balance all those things. And that is, you know it was an almost an inhuman task to try to do all that.

[U] Q. And again the reason I asked we looked--we keep coming back to this Brigade level problem at the prison. And we're not trying to reinvestigate Abu Ghraib. We're trying to get a much broader look at what happened across Iraq and across CJTF-7. But when you get back reconstructing this whole thing and you can find a number of reasons why this occurred now with the 205th and the interrogation problems; and we looked to leadership and failures in leadership. That's why we get to General Wojdakowski. Because he was directly tasked with supervising those Brigades.

[U] A. Right.

[U] Q. Understanding what he was resourced to do. Understanding what he was charged to do, the question comes, did he fail in anyway in his responsibilities regarding, the supervision of those Brigades?

[U] A. In my view the answer is it's a matter of degree. He had, I don't know how many tasks he had on his plate. I was only investigating one Brigade. One aspect of it. So when you add it all up, it's a different question than when you just look at did he fail in the supervision of that Brigade. Those two Brigades.

[U] And--and in my view the answer to that is in the end, yes, he did. Otherwise these things would have been fixed. That's what people are paid to do. But when you put on top of that, the 16 other Brigades that he was asked to supervise and the twenty other missions that he was trying to accomplish, then the question is if I put the same lens on everyone of those other ones, I probably would have found other failures too. We put the lens on these two Brigades. Because that's where the abuses took place. He may have prevented ten other things from happening under those other Brigades and missions because his energy was going towards those. And failed to do it over there. So I believe that the failure is the one of his being adequately resourced to accomplish all the missions that he had, and having the staffs not providing him the right--and the Commanders not providing him the right feedback that says we need help. This is not going right.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. Sir, was there anything that General Wojdakowski could have done to get help? To help him to handle

here's the facts of what we found. The same thing I presented to the press and to the Senate. He was very, very strong on what he thought General Sanchez had tried to get done. And that was just his background for you.

[U] (b)(6)-2 & (b)(7)(C)-2: Right. Okay, Sir. We'll check with your Aide afterwards and get his name.

[U] GENERAL KERN: Yeah.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir, we're going to ask you for your legal opinion now. On several things.

[U] GENERAL KERN: Okay.

BY (b)(6)-2 & (b)(7)(C)-2

[U] Q. I just want to real quickly review what Article 92 of the UCMJ says regarding dereliction of duty, and that is dereliction in the performance of one's duties consisted of three elements: First, a person had certain duties. Secondly, that that person knew or reasonably should have known of those duties; and three, was derelict in the performance of those duties through willfulness, negligence, or culpable inefficiency. So three elements of proof for Article 92 of the UCMJ, Dereliction of Duty. I know you're not a lawyer, Sir, but given those three elements, and given that the report found that General Sanchez and General Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations, and given the complex and violent environment in which CJTF-7 was operating in an under resourced manner as the report pointed out, and I think most people know and understand, would you, in your opinion, say that General Sanchez was derelict in the performance of his duties as it pertain to----

[U] A. No, I would not.

[U] Q. And can you elaborate on why?

[U] A. Yeah, I think that you could find some proof that the first two elements may have been supportable but not the third.

[U] Q. Yes, Sir.

[U] A. There was clearly in my view absolutely no willfulness, negligence, or inefficiency on his part to commit dereliction of duty violation.

[U] Q. All right, Sir, the same question for General Wojdakowski.

[U] A. And I would say the same thing.

[U] Q. Yes, Sir. He of course had the more specific direct oversight of those people----

[U] A. He had the more specific oversight so there is more evidence of the first elements of being supportable. But he was so over tasked by the number of things that he had to do, that I saw no evidence of anything either--clearly not willful. You know, I don't know how much more efficiency you could have squeezed out of that turnip.

[U] Q. Right. All right, Sir, and then the same question for Major General Fast?

[U] A. No. I think General Fast, one, in part because of her absence during a critical period of this, and two by her tasking to build an intelligence picture to all those elements that we discussed earlier; never really saw that her mission was oversight of the interrogations. Establish of the JDIC was her mission and she had done that. Establish of what happened with the information that came out of it, but not the conduct of the interrogations. So I think, you would have in my view, she accomplished the first two very admirably of establishing the right processes and of doing the intelligence fusion, and I don't see that conduct was something that she felt nor would--did anyone else believe was in her bailiwick. The conduct of that went back to the Commander. And that's the problem I felt the whole Military Intelligence organization where you--when you don't assign a task to a Commander you end up with staff in-between.

[U] Q. Right. And so even though there was no formal assignment, it does appear that Colonel Pappas at least attempted to wrap his arms around it and accept responsibility, but that responsibility was never formalized by an order as you've gone through.

[U] A. That's right.

[U] Q. Yes, Sir.

[U] A. The order encompassed all of Iraq not specific to Abu Ghraib.

[U] Q. Yes, Sir, and of course it's a little murky with General Fast because of the doctrinal responsibilities that

[U] A. And I don't think he's derelict in that. I think it's--and part of the whole problem I would argue is that a CJTF is a Joint Organization.

[U] Q. Yes, Sir.

[U] A. Albeit we're talking about our Army. So where is the J? Where is the doctrine and the training for how this organization is going to--and the only Joint person we had there was the Marine Chief of Staff who was working for Bremer.

[U] Q. Right.

[U] A. And we had an Australian Lawyer and a couple of other people who were parts of the staff. But we really lack a training organizational process. A BCTP-like effort for Combined Joint Task Forces that are created out of whole cloth when you're in the middle of an operation. You know we always write an order. Send people off. Put them through the training. Do the AARs, retraining them where they fail; and keep doing it. None of that happened. So when you go down and you say were these people derelict? They were doing, I believe, the very best they could do given a myriad of missions which over tasked them to begin with. So they were trying to sweat through the priorities of what was important. And that's where the system failed, I believe rather than dereliction of any individual to provide that. I mean were those folks sitting there just kind of twiddling their thumbs and going out to the bar at night drinking? Hell no. They were working seven days a week, eighteen, nineteen, twenty hour days. Jumping between two Headquarters. Between the CPA and the CJTF trying to pull all those pieces together. And I think we need to remember that our report is focused on specific narrow areas. that had lots of complicity of where it broke down. But to put it back at a senior staff level who had these other things to do and label it dereliction I believe was wrong.

[U] Q. Yes, Sir.

[U] A. Were they perfect? No. Did they miss something? Yeah. Were they derelict? No.

[U] Q. All right, Sir.

[U] A. That's my opinion.

[U] b)(6)-2 & (b)(7)(C)-2 Okay, Sir. Sir, do you have any other questions?

[U] b)(6)-2 & (b)(7)(C)-2 Sir, I do. And again this is where we're seeking some senior leader perspective. Realizing that

you're, number one, the General, two you've investigated the situation; three you've testified to Members of Congress. Obviously, these reports will become part of the Army Record, and they're going to have a very long life. They will be requested for official purposes and read by any number of people. Potentially even, you know, Members of Congress I would expect. So, there's a lot of concern about holding senior leaders accountable or responsible in these matters. Obviously we have to make a finding based on the facts as far as allegations go.

[U] A. Right.

[U] Q. But outside of that, how do you interpret or describe holding people accountable? How would you describe that process or what that charter is for the kind of folks we've talked about today? Understanding, how the Army is going to be looked at, how these individuals will be looked at of for what they did; what they may have failed to do. Potentially through no fault of their own. What is holding them accountable mean to you?

[U] A. I think it goes back to my original statement that when we accept command, we accept responsibility for all the people that are in that command. And I use the word 'responsibility' as opposed to 'accountability'. You hold everybody inside your command accountable for their actions. In General Sanchez's case, I believe he accepted the responsibility for what happened, and he directed investigations to find the accountable person where it failed.

[U] When it became a question that perhaps he might be involved, he asked to be recused from it and asked for another Appointing Authority. So I believe his integrity in trying to define accountability is very clear. And in doing that and saying that okay maybe I had some responsibility. Maybe I had some accountability as well. We found and I personally believe that he holds himself personally responsible and has said that publicly for what happened. And had he been given that Red Cross report and the staff provided him some of the investigative CID actions at the tactical sites and put all that together; had he had an organization, a Four Organization… A staff that was practiced and functioning together that would come to his attention. But it didn't until after the atrocities, abuses, were reported. So I believe he took responsibility to fix accountability and did the right things. And he personally from an accountability standpoint did the right things both in what he tried to do previous to that and what he was doing after the fact once he found out that something in fact had gone awry.

[U] I believe General Wojdakowski, has more direct responsibility over those Brigades. And in retrospect,

should have taken those two Brigade Commanders in and sat them down and defined more clearly and changed the command relationship if necessary. I also believe he was over tasked in the number of Brigades he was asked to supervise and the kinds of things that he was asked beyond just command relationships to solve problems on. So I don't believe that he was derelict and was and held himself accountable for what did happen. And just didn't see this other piece of it developing; and again he didn't get the Red Cross report until after the fact. Which to me keeps coming back as one of those key points.

[U] If I were to fix the whole problem to begin with, and one I believe doctrinally and organizationally we need to fix the Military Intelligence community so that there is clear accountability and responsibility and a line of authority. That is the case in the Military Police Units. Not in the case of the Military Intelligence Units.

[U] The second thing that I believe for accountability when you're conducting detention operations and you have mixed organizations. Military Police, Military Intelligence, OGAs, you need to clearly define someone in charge of all aspect of it. Now that has been done retrospectively. And it probably ought to be in a multi-Corps type operation. It ought to be a General Officer not a Staff Officer and not a Colonel who has other General Officers who have pieces of the organization. You need to put a senior General Officer in charge. And that will fix the accountability and responsibility chain. So that things that became unclear are no longer a question.

[U] And third I believe that detention operations historically have created problems. We saw it Viet Nam. We saw it here. We see it in our own prisons here in the United States. Penitentiaries and state prisons. And so there ought to be warning flags and independent assessments as long as we have detention operations going on. That we have an independent method for commanders to get report to go outside of that chain of command. Somebody who is an IG, an ombudsman, however you want to describe that function and it will be joint function so it may not fit precisely into Army terms. But the Commander needs that feedback directly or we will see these kinds of events happen again I believe.

[U] And finally I personally believe that the Geneva Convention ought to be held almost sacrosanct in how we conduct operations. Both because it represents the values that "we" expect of our Soldiers but it also represents how we would like our Soldiers be treated or anybody else. It might be contractors. It might be Department of the Army, Department of Defense Civilians, by other countries if they are held as

[U] (b)(6)-2 & (b)(7)(C)-2 Right.

[U] GENERAL KERN: Much more than you know the MP Sergeants who are being prosecuted right now.

[ ] b)(6)-2 & (b)(7)(C)-2 Right. Yes, Sir. All right. Unless you have anything else to add then, Sir, I'll go ahead and go into the formal read-out.

[U] GENERAL KERN: Okay.

[U] b)(6)-2 & (b)(7)(C)-2 All right, Sir. We are required to protect the confidentiality of IG inquires, and the rights, privacy, and reputations of all people involved in them. We ask people not to discuss or reveal matters under inquiry. Accordingly, we ask that you not discuss this matter with anyone, except an attorney if you choose to consult one, without permission of the Investigating Officers.

[U] Your testimony is part of an official Inspector General Record. Earlier, I advised you that while access is normally restricted to persons who clearly need the information to perform their official duties your testimony may be released outside official channels. Individual members of the public who do not have an official need to know, may request a copy of the record to include your testimony under the Freedom of Information Act. If there is such a request, do you consent to the release of your testimony outside official channels?

[U] GENERAL KERN: I think the answer is yes. But I guess the question is, I--how about all the people whom we name in this? Do they get to see it before somebody else does? That's always troubled me.

[U] b)(6)-2 & (b)(7)(C)-2 Not necessarily, Sir.

[U] GENERAL KERN: So if Jim Smith asked for a copy of my testimony he gets to read it and Sanchez and Wojdakowski and Fast and Pappas and Jordan don't?

[U] b)(6)-2 & (b)(7)(C)-2 May not, necessarily no.

[U] b)(6)-2 & (b)(7)(C)-2 Your testimony, Sir, is normally redacted before it's sent out. If you put--if you say FOIA no that is the highest restriction and it generally will not be shared. If you say FOIA yes, then it can be shared for unofficial purposes and there will be some redaction to protect the confidentiality.

[U] GENERAL KERN: I have mixed feeling on this one. Do you have any----

[U] (b)(6)-2 & (b)(7)(C)-2 No, Sir. We--we make no judgment on it. It is absolutely your decision. And I would do whatever just feels right for you, Sir.

[U] GENERAL KERN: I'll say yes.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: Because I think as you suggested earlier we're going to have to study and use this in the future to--

[U] (b)(6)-2 & (b)(7)(C)-2 One question we didn't ask, Sir, is there anything we discussed today that you think was classified?

[U] GENERAL KERN: I'd go back and look at the discussion around the CIA. General Fay and I have had this discussion a couple of times, and he believes that what we've got is not classified. The CIA has challenged that.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] (b)(6)-2 & (b)(7)(C)-2 All right, Sir.

[U] GENERAL KERN: Now, I don't know if they've challenged it just because they don't want it discussed or not.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. Okay, do you have any questions, Sir?

[U] GENERAL KERN: No.

[U] (b)(6)-2 & (b)(7)(C)-2 All right.

[U] GENERAL KERN: I appreciate what you're doing. I know this is a tough one.

[U] (b)(6)-2 & (b)(7)(C)-2 Yes, Sir. The time is 1245 and this interview is concluded.

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[Testimony of **GENERAL PAUL J. KERN** was recorded by means of magnetic tape, and transcribed and certified by (b)(6)-2 & (b)(7)(C)-2 Certified Closed Microphone Court Reporter, United States Army Inspector General Agency, Presidential Towers, Crystal City, Virginia.]

SAIG-IN

MEMORANDUM THRU

IN, LEGAL (b)(6)-2 & (b)(7)(C)-2 6 Jan 05

IG, LEGAL (b)(6)-2 & (b)(7)(C)-2 6 JAN 05

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FOR ATIG Approved (b)(6)-2 & (b)(7)(C)-2 [redacted] (b)(6)-2 & (b)(7)(C)-2 [redacted] Disapproved______ See Me______ Date 10 Jan 05 (Vcsa)

INFO VCSA

SUBJECT: (U) Alleged Improprieties by BG Janis Karpinski, USAR, Commander (CDR), 800th Military Police (MP) Brigade (BDE), Iraq **(DIG 05-80006)**

1. (U) On 28 April 2004, Inspections Division, DAIG, advised Investigations Division, DAIG, of an Army Regulation (AR) 15-6, Procedures for Investigating Officers (IO) and Boards of Officers, investigation report that detailed the investigation of alleged detainee abuse at the Abu Ghraib Prison in Baghdad, Iraq. The report identified findings against BG Karpinski. The IO was MG Antonio Taguba, Deputy CDR, Coalition Forces Land Component Command (CFLCC), 3d Army. He found that BG Karpinski improperly:

a. (U) Failed to ensure that MP Soldiers had appropriate Standard Operating Procedures (SOPs) for dealing with detainees, and that CDRs and Soldiers read and understood the SOPs.

b. (U) Failed to ensure that MP Soldiers knew, understood, and adhered to the Geneva Convention (GC) relative to the treatment of Prisoners of War (POW).

[IO Note: (U) During BG Karpinski's command, the 800th MP BDE detained civilians, not POWs. Consequently the GC relative to the treatment of civilians was the proper standard.]

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c. (U) Made material misrepresentations to the AR 15-6 investigating team concerning the frequency of her visits to subordinate units.

d. (U) Failed to obey a lawful order from the CDR, CFLCC, regarding the withholding of disciplinary authority for officer and senior noncommissioned officer (NCO) misconduct.

e. (U) Failed to take appropriate action concerning the ineffective leadership and performance of a subordinate battalion (BN) CDR and certain members of the BDE staff.

f. (U) Failed to ensure the results and recommendations of After Action Reviews (AARs) and AR 15-6 investigation reports on detainee escapes and shootings were properly disseminated.

g. (U) Failed to ensure basic Soldier standards.

h. (U) Failed to establish a BDE Mission Essential Task List (METL).

i. (U) Failed to establish basic proficiency in assigned tasks for Soldiers.

j. (U) Failed to ensure that numerous reported accountability lapses at detention facilities were corrected. (EXHIBIT C-1, pages 44-45)

2. (U) Concerning conflicting findings:

a. (U) On 31 January 2004, the CDR CFLCC, appointed MG Taguba to conduct an AR 15-6 investigation [hereinafter Taguba Report], into allegations of detainee abuse committed by members of the 800th MP BDE. On 26 February 2004, 26 days later, MG Taguba completed his findings. MG Taguba and his team conducted numerous witness and suspect interviews, and reviewed vast numbers of documents to arrive at the report's conclusions concerning detainee abuse. The AR 15-6 was reviewed by the Deputy Staff Judge Advocate, CFLCC, for legal sufficiency.

b. (U) On 28 April 2004, the Taguba Report was referred to DAIG because it identified findings against a senior official, BG Karpinski. The focus of the DAIG inquiry was to identify any specific impropriety by BG Karpinski. For eight months, DAIG

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conducted an extensive review of the Taguba Report, interviewed additional witnesses, and reviewed the base reports and exhibits of the Kern Report, Weidenbush Report, Schlesinger Report, DAIG Detainee Operations Inspection, Ryder Report, and the Miller Report, as well as rebuttals submitted by BG Karpinski and her attorneys. Judge advocates from The Office of The Judge Advocate General and the Office of the General Counsel conducted an extensive legal review of this DAIG inquiry.

c. (U) Because the focus of this DAIG inquiry differed from that of MG Taguba, there were instances where DAIG's conclusions differed from those of the Taguba Report. The different conclusions were attributed to DAIG having fewer time constraints and the opportunity to review additional evidence not available at the time the Taguba Report was finalized. In certain instances, the supporting evidence in the Taguba Report did not meet DAIG's preponderance of the evidence standard and DAIG was unable to concur with some of the Taguba Report's findings.

d. (U) The apparently conflicting findings in the current DAIG investigation, the Taguba Report, and other reports should not be misinterpreted to mean that DAIG found the reports to be inaccurate. Each report must be considered in light of their difference in focus, the evidence available at the time to the investigators, the personal observations of the investigative team, and the documentation supporting the findings.

3. (U) Background:

a. (U) The 800th MP BDE was mobilized in January 2003, and deployed to Iraq in March 2003. BG Karpinski assumed command on 30 June 2003. On 31 January 2004, Lieutenant General (LTG) David McKiernan, CDR, CFLCC, appointed MG Taguba as the AR 15-6 IO to investigate allegations of detainee abuse committed by members of the 800th MP BDE. Several Soldiers were charged with criminal offenses pertaining to the alleged abuse. The IO completed his investigation on 26 February 2004. The recommendations included relieving BG Karpinski for cause and issuing her a General Officer Memorandum of Reprimand (GOMOR). (b)(5) -b(5)-3

(b)(5)

b. (U) The AR 15-6 report was forwarded to BG Karpinski on 15 March 2004 for her review and rebuttal. (Exhibit C-2)

c. (U) After considering BG Karpinski's rebuttal and MG Taguba's response to the rebuttal, LTG McKiernan approved the findings and recommendations of the MG Taguba AR 15-6 report. (Exhibits C-3, C-4, C-5, and C-6)

[IO Note: (U) The exact date that LTG McKiernan approved the report could not be confirmed; however, the evidence indicated he approved the report on or about 5 April 2004. Although LTG McKiernan approved the findings and recommendations of the report, he later decided not to relieve BG Karpinski for cause.]

d. (U) The eleven findings against BG Karpinski in the AR 15-6 report were incorporated into three allegations considered in this inquiry. The three allegations were that BG Karpinski improperly:

(1) (U) Was derelict in the performance of her duties.

~~[IO Note: The DAIG's review of the Kern Report, as requested by BG Karpinski,~~ revealed evidence that BG Karpinski failed to properly respond to the International Committee of the Red Cross (ICRC) report concerning the treatment of detainees at Abu Ghraib. Evidence in the Kern Report also indicated that BG Karpinski failed to properly exercise her authority and responsibilities to ensure Abu Ghraib was run appropriately. These two matters were addressed in the allegation that BG Karpinski was derelict in the performance of her duties.

(2) (U) Made a material misrepresentation to the AR 15-6 investigating team.

(3) (U) Failed to obey a general order from the CDR, CFLCC, regarding the withholding of disciplinary authority for officer and senior noncommissioned officer misconduct.

[IO Note: (U) The DAIG's initial review of the AR 15-6 report determined that there was not a preponderance of evidence to support a DAIG substantiation of the allegation that BG Karpinski made a material misrepresentation to the AR 15-6 investigating team. Therefore, BG Karpinski was not asked to comment on this allegation.]

e. (U) On 26 May 2004, in accordance with standard procedures, DAIG forwarded a letter to BG Karpinski informing her that DAIG was considering whether to record allegations against her as substantiated or unsubstantiated and provided her an opportunity to respond before a determination was made. Her suspense to respond was 27 June 2004. (EXHIBIT C-8)

f. (U) On 26 June 2004, [redacted] BG Karpinski's [redacted] requested a delay in responding to the allegations. (EXHIBIT C-9)

g. (U) On 30 June 2004, DAIG forwarded a letter to [redacted] BG Karpinski's [redacted] informing him that BG Karpinski was granted an extension until 2 August 2004 to respond to the allegations. (EXHIBIT C-10)

[redacted]

h. (U) On 27 July 2004, [redacted] requested a second delay in responding to the allegations. (EXHIBIT C-11)

i. (U) On 10 August 2004, DAIG forwarded a letter to BG Karpinski informing her that she was granted an extension until 21 September 2004 to respond to the allegations. (EXHIBIT C-12)

j. (U) On 19 September 2004, BG Karpinski provided a response to DAIG concerning the allegations against her. (EXHIBIT C-13)

[IO Note: (U) As requested by BG Karpinski in her rebuttal, the following documents were reviewed concerning the allegations against BG Karpinski: the Taguba AR 15-6 Report, Kern Report, Weidenbush Report, Schlesinger Report, DAIG Detainee Operations Inspection, Ryder Report, and the Miller Report. The base reports and exhibits were reviewed.]

4. (U) Operational Environment:

a. (U) Prior to its mobilization in January 2003, the 800th MP BDE followed a standard pre-mobilization training plan. The 800th MP BDE was a United States Army Reserve (USAR) unit whose Headquarters and Headquarters Company (HHC) was located in Uniondale, New York (NY). BG Paul Hill commanded the BDE from 21 May 1999 to 30 June 2003. The BDE's next higher peacetime headquarters was the 77th

Regional Support Command, Fort Totten, NY. The 800th MP BDE mission was to command and control the conduct of Internment and Resettlement (I/R) operations, and was their training focus during peacetime. The 800th MP BDE had two MP (I/R) battalions (BNs), the 310th MP BN (I/R) and the 306th MP BN (I/R), both located in Uniondale. It had three MP companies (COs), the 340th MP CO, Jamaica, NY; the 423d MP CO, Uniondale, NY; and the 812th MP CO, Orangeburg, NY. Additionally assigned to the BDE were the 348th MP Detachment (DET), Fort Dix, New Jersey; the 311th Military Intelligence (MI) CO, Staten Island, NY; the 3406th MI DET; the 3413th MI DET; 3418th MI DET, all located in Bronx, NY; the 3424th MI DET, Mattydale, NY; and a Personnel Services DET. The MI units were designed to support the I/R mission.

b. (U) The BDE mobilized in January 2003 in preparation for the start of combat operations in March 2003. The BDE mobilized for deployment to Kuwait, where it prepared to conduct I/R operations in support of CFLCC. Throughout the 800th MP BDE's deployment, units assigned to the BDE included the 724th MP BN (I/R), Fort Lauderdale, Florida; the 320th MP BN (I/R), Ashelee, Pennsylvania (PA); the 530th MP BN (I/R), Omaha, Nebraska; the 744th MP BN (I/R), Bethlehem, PA; the 324th MP BN, Chambersburg, PA; the 400th MP BN, Fort Meade, Maryland (MD); the 115th MP BN, Salisbury, MD; and the 310th MP BN (I/R). It was notable that only the 310th MP BN was part of the 800th MP BDE during peacetime. The BDE's peacetime organic MP (I/R) units were tasked to other commands. No MI units were part of the task organization.

c. (U) Due to force rotation plans, the 115th and the 324th MP BNs redeployed in December 2003. Additionally, the 400th MP BN redeployed in January 2004, and the 724th MP BN in February 2004.

d. (U) A review of training records indicated the majority of post-mobilization training consisted of required individual soldier tasks. These requirements, combined with necessary soldier readiness processing and the demand for forces in theater, provided limited time for collective training at the mobilization stations. The BDE HHC, mobilized and deployed in a series of DETs, did not appear to conduct any post-mobilization collective training. The 800th MP BDE was incrementally mobilized and deployed, assigned units without a habitual peacetime training relationship, and lacked the opportunity to execute deliberate, collective, post-mobilization training.

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e. (U) In Kuwait, the BDE reported to the 377th Theater Support Command, commanded by MG Richard Kratzer, who in turn reported to the Commanding General (CG), CFLCC, LTG McKiernan. Combat operations began on 20 March 2003, and BG Hill commanded the BDE through 29 June 2003.

f. (U) On 15 June 2003, V Corps, which conducted major combat operations under CFLCC control, became Combined Joint Task Force – 7 (CJTF-7). Following the Transfer of Authority, CLFCC transferred its operational responsibilities for the Iraqi theater of operations (ITO) to CJTF-7, and repositioned its headquarters from Baghdad to Kuwait. The commanders of both organizations reported to the CG, US Central Command (CENTCOM). On the same day, the 800th was placed under the tactical control (TACON) of CJTF-7. It remained attached to the 377th TSC. The rationale for assignment of TACON was in part to allow CJTF-7 to assign the 800th MP BDE tactical missions, while protecting the unit integrity of the 800th MP BDE while it operated under CJTF-7.

[IO Note: (U) Joint Publication 3-0, Fundamentals of Joint Operations, Chapter 5, Command Relationships, defined TACON as the command authority that was limited to the detailed direction and control of movements or maneuvers necessary to accomplish assigned mission or tasks. TACON did not provide organizational authority or authoritative direction for administrative and logistic support; the CDR of the parent unit continued to exercise those responsibilities unless otherwise specified in the establishing directive.]

g. (U) On 28 June 2003, CJTF-7 issued FRAGO 209 to CJTF-7 OPORD 03-036, which assigned responsibilities to the 800th MP BDE concerning detainee operations.

h. (U) On 29 June 2003, BG Hill relinquished command of the 800th MP BDE to BG Karpinski.

I. (U) Other significant events:

(1) (U) During June 2003, the CPA identified the need to reestablish the Iraqi national prison system. As a result, the decision was made to temporarily reopen the Abu Ghraib prison. On 28 June 2003, the CJTF-7 directed the 800th MP BDE to assume control of all detention facilities, which included Abu Ghraib.

(2) (U) On 11 August 2003, CJTF-7 requested an assessment of internment operations in the ITO. MG Donald Ryder was directed to lead the assessment.

(3) (U) On 31 August 2003, after a request initiated by CJTF-7, MG Geoffrey Miller led a team to review interrogation policies and procedures in the ITO.

(4) (U) On 4 October 2003, CJTF-7 designated Abu Ghraib as an enduring base. This resulted in an increased priority for support and funding.

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(5) (U) On 13 January 2004, Specialist [redacted], a MP Soldier assigned to the 800th MP BDE reported detainee abuse at Abu Ghraib.

(6) (U) On 31 March 2004, LTG Sanchez appointed MG George R. Fay as IO under the provisions of AR 381-10, Procedure 15. MG Fay was appointed to investigate allegations that members of the 205th MI BDE were involved in detainee abuse at the Abu Ghraib Detention Facility.

(7) (U) On 16 June 2004, Acting Secretary of the Army R. L. Brownlee appointed General (GEN) Paul J. Kern as the new Procedure 15 appointing authority. On 25 June 2004, GEN Kern appointed LTG Anthony R. Jones, as an additional Procedure 15 IO. LTG Jones was specifically directed to focus on whether organizations or personnel higher than the 205th MI BDE chain of command, or events and circumstances outside of the 205th MI BDE, were involved, directly or indirectly, in the questionable activities regarding alleged detainee abuse at Abu Ghraib prison. MG Fay was retained as an investigating officer.

5. (U) Allegation #1: BG Karpinski was improperly derelict in the performance of her duties.

a. (U) Standard: Article 92, Uniform Code of Military Justice (UCMJ), 2002 edition, stated:

(1) (U) "Any person subject to this chapter who is derelict in the performance of his duties; shall be punished as a court-martial may direct."

(2) (U) The elements of proof were: "That the accused had certain duties; that the accused knew or reasonably should have known of the duties; and that the accused was (willfully) (through neglect or culpable inefficiency) derelict in the performance of those duties."

(3) (U) Explanation:

(a) (U) "*Duty*. A duty may be imposed by treaty, statute, regulation, lawful order, standard operating procedure, or custom of the service."

(b) (U) "*Knowledge*. Actual knowledge of duties may be proved by circumstantial evidence. Actual knowledge need not be shown if the individual reasonably should have known of the duties. This may be demonstrated by regulations, training or operating manuals, customs of the service, academic literature or testimony, testimony of persons who have held similar or superior positions, or similar evidence."

(c) (U) "*Derelict*. A person is derelict in the performance of duties when that person willfully or negligently fails to perform that person's duties or when that person performs them in a culpably inefficient manner. "Willfully" means intentionally. It refers to the doing of an act knowingly and purposely, specifically intending the natural and probable consequences of the act. "Negligently" means an act or omission of a person who is under a duty to use due care which exhibits a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. "Culpable inefficiency" is inefficiency for which there is no reasonable or just excuse." (EXHIBIT B-1)

b. (U) Documents:

(1) (U) An AR 15-6 investigation report, "Article [sic] 15-6 Investigation of the 800th MP BDE", referred to as the Taguba Report, dated 26 February 2004, determined, in part, that BG Karpinski had engaged in misconduct.

(a) (U) Part One documented the findings concerning detainee abuse and maltreatment at the Abu Ghraib Prison. The findings pertaining to BG Karpinski included:

1 (U) Finding 12, Page 20: "Moreover, I find that few, if any, copies of the Geneva Conventions were ever made available to MP personnel or detainees."

2 (U) Finding 14, Page 20: "Despite this documented abuse, there is no evidence that BG Karpinski ever attempted to remind 800th MP Soldiers of the requirements of the Geneva Conventions regarding detainee treatment or took any steps to ensure that such abuse was not repeated."

(b) (U) Part Two documented the findings concerning detainee escapes and accountability lapses at the Abu Ghraib Prison. The findings pertaining to BG Karpinski included:

1 (U) Finding 8, page 22: "There is a general lack of knowledge, implementation, and emphasis of basic legal, regulatory, doctrinal, and command requirements within the 800th MP Brigade and its subordinate units."

2 (U) Finding 16, page 24: "The 800th MP Brigade and subordinate units adopted non-doctrinal terms such as "band checks," "roll-ups," and "call-ups," which contributed to the lapses in accountability and confusion at the Soldier level."

3 (U) Finding 17, Page 24: "Operational journals at the various compounds and the 320th Battalion TOC [Tactical Operations Center] contained numerous unprofessional entries and flippant comments, which highlighted the lack of discipline within the unit. There was no indication that the journals were ever reviewed by anyone in the chain of command."

4 (U) Finding 18, Page 24: "Accountability SOPs were not fully developed and standing TACSOPs [tactical SOPs] were widely ignored. Any SOPs that did exist were not trained on, and were never distributed to the lowest level. Most procedures were shelved at the unit TOC, rather than at the subordinate units and guards mount sites."

5 (U) Finding 19, Page 24: "Accountability and facility operations SOPs lacked specificity, implementation measures, and a system of checks and balances to ensure compliance."

6 (U) Finding 20, Page 24: "Basic Army Doctrine was not widely referenced or utilized to develop accountability practices throughout the 800th MP Brigade's

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subordinate units. Daily processing, accountability, and detainee care appeared to have been made up as the operations developed with reliance on, and guidance from, junior members of the unit who had civilian corrections experience."

7 (U) Finding 21, Page 24: "Soldiers were poorly prepared and untrained to conduct I/R [internment/resettlement] operations prior to deployment, at the mobilization site, upon arrival in theater, and throughout their mission."

[IO Note: (U) BG Karpinski did not command the 800th MP BDE prior to deployment, at the mobilization site, upon arrival in theater, or during the mission from January through 29 June 2003.]

8 (U) Finding 22, Page 24: "The documentation to this investigation identified 27 escapes or attempted escapes from the detention facilities throughout the 800th MP Brigade's AOR [area of responsibility]. ... it is highly likely that there were several more unreported cases of escape that were probably "written off" as administrative errors or otherwise undocumented. ... BG Karpinski stated that there were more than 32 escapes from her holding facilities, which does not match the number derived from the investigation materials."

9 (U) Finding 25, Page 25: "AARs are not routinely being conducted after an escape or other serious incident. No lessons learned seem to have been disseminated to subordinate units to enable corrective action at the lowest level. The Investigation Team requested copies of AARs, and none were provided."

10 (U) Finding 26, Page 25: "Lessons learned (i.e. Findings and Recommendations from various 15-6 Investigations concerning escapes and accountability lapses) were rubber stamped as approved and ordered implemented by BG Karpinski. There is no evidence that the majority of her orders directing the implementation of substantive changes were ever acted upon. Additionally, there was no follow-up by the command to verify corrective actions were taken. Had the findings and recommendations contained within their own investigations been analyzed and actually implemented by BG Karpinski, many of the subsequent escapes, accountability lapses, and cases of abuse may have been prevented."

11 (U) Finding 28, Page 26: "Neither the camp rules nor the provisions of the Geneva Conventions were posted in English or in the language of the detainees at any

of the detention facilities in the 800th MP Brigade's AOR, even after several investigations had annotated the lack of this critical requirement."

12 (U) Finding 31, Page 26: "SGM (b)(6)-2 & (b)(7)(C)-2 Operations SGM, 320th MP Battalion, contended that the Detainee Rules of Engagement (DROE) and the general principles of the Geneva Conventions were briefed at every guard mount and shift change on Abu Ghraib. However, none of our witnesses, nor our personal observations, support his contention. I find that SGM (b)(6)-2 & (b)(7)(C)-2 was not a credible witness."

13 (U) Finding 32, Page 26: "Several interviewees insisted that the MP and MI Soldiers at Abu Ghraib (BCCF) received regular training on the basics of detainee operations; however, they have been unable to produce any verifying documentation, sign-in rosters, or Soldiers who could recall the content of this training."

14 (U) Finding 34, Page 27: "First, investigations and SIRs [serious incident reports] lacked critical data needed to evaluate the details of each incident. Second, each investigation seems to have pointed to the same types of deficiencies; however, little to nothing was done to correct the problems and to implement the recommendations as was ordered by BG Karpinski, nor was there any command emphasis to ensure these deficiencies were corrected."

15 (U) Finding 36, Page 31: "...there was virtually a complete lack of detailed SOPs at any of the detention facilities. Moreover, despite the fact that there were numerous reported escapes at detention facilities throughout Iraq (in excess of 35), AR 15-6 investigations following these escapes were simply forgotten or ignored by the Brigade Commander with no dissemination to other facilities. After-Action Reports and Lessons Learned, if done at all, remained at individual facilities and were not shared among other commanders or Soldiers throughout the Brigade. The Command never issued standard TTPs [Tactics, Techniques, and Procedures] for handling escape incidents."

(c) (U) Part Three documented the findings concerning the training, standards, employment, command policies, internal procedures, and command climate in the 800th MP BDE. The findings pertaining to BG Karpinski included:

1 (U) Finding 3, Page 37: "There is abundant evidence in the statements of numerous witnesses that Soldiers throughout the 800th MP Brigade were not proficient in their basic MOS [military occupational specialty] skills, particularly regarding internment/resettlement operations. Moreover, there is no evidence that the command, although aware of these deficiencies, attempted to correct them in any systemic manner other than ad hoc training by individuals with civilian corrections experience."

2 (U) Finding 5, Page 37: "Almost every witness we interviewed had no familiarity with the provisions of AR 190-8 or FM [Field Manual] 3-19.40. It does not appear that a Mission Essential Task List (METL) based on in-theater missions was ever developed nor was a training plan implemented throughout the Brigade."

3 (U) Finding 6, Page 37: "This investigation indicates that BG Karpinski and her staff did a poor job allocating resources throughout the Iraq JOA. Abu Ghraib (BCCF) normally housed between 6000 and 7000 detainees, yet it was operated by only one battalion. In contrast, the HVD [High Value Detention] Facility maintains only about 100 detainees, and is also run by an entire battalion."

4 (U) Finding 7, Page 38: Because of past associations, it appeared that friendships often took precedence over appropriate leader and subordinate relationships.

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5 (U) Finding 13, Page 40: "Despite his proven deficiencies as both a commander and leader, BG Karpinski allowed LTC (P) [redacted] to remain in command of her most troubled battalion guarding, by far, the largest number of detainees in the 800th MP Brigade. LTC (P) [redacted] was suspended from his duties by LTG Sanchez, CJTF-7 Commander on 17 January 2004."

6 (U) Finding 17, Page 40: "Numerous witnesses stated that the 800th MP Brigade S-1, MAJ (b)(6)-2 & (b)(7)(C)-2 and S-4, MAJ (b)(6)-2 & (b)(7)(C)-2 were essentially dysfunctional, but that despite numerous complaints, these officers were not replaced. This had a detrimental effect on the Brigade Staff's effectiveness and morale. Moreover, the Brigade Command Judge Advocate, LTC (b)(6)-2 & (b)(7)(C)-2 appeared to lack initiative and was unwilling to accept responsibility for any of his actions. LTC (b)(6)-2 & (b)(7)(C)-2 the Brigade XO did not properly supervise the Brigade staff by failing to lay out staff priorities, take overt corrective action when needed, and supervise their daily functions."

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7 (U) Finding 18, Page 41: "In addition to poor morale and staff inefficiencies, I find the 800th MP Brigade did not articulate or enforce clear and basic Soldier and Army standards. I specifically found these examples of unenforced standards: There was no clear uniform standard for any MP Soldiers assigned detention duties. Despite the fact that hundreds of former Iraqi soldiers and officers were detainees, MP personnel were allowed to wear civilian clothes in the FOB after duty hours while carrying weapons. Some Soldiers wrote poems and other sayings on their helmets and soft caps. ...Saluting of officers was sporadic and not enforced."

8 (U) Finding 21, Page 43: "...there was no clear emphasis by BG Karpinski to ensure that the 800th MP Brigade Staff, Commanders, and Soldiers were trained to standard in detainee operations and proficiency or that serious accountability lapses that occurred over a significant period of time, particularly at Abu Ghraib (BCCF), were corrected. AR 15-6 Investigations regarding detainee escapes were not acted upon, followed up with corrective action, or disseminated to subordinate commanders or Soldiers. Brigade and unit SOPs for dealing with detainees if they existed at all, were not read or understood by MP Soldiers assigned the difficult mission of detainee operations. Following the abuse of several detainees at Camp Bucca in May 2003, I could find no evidence that BG Karpinski ever directed corrective training for her soldiers or ensured that MP Soldiers throughout Iraq clearly understood the requirements of the Geneva Conventions relating to the treatment of detainees." (EXHIBIT C-1)

(2) (U) In a memorandum, dated 15 March 2004, LTG McKiernan referred the AR 15-6 report to BG Karpinski for comment. (EXHIBIT C-2)

(3) (U) In an unsworn memorandum, dated 1 April 2004, subject: Rebuttal to AR 15-6 Investigation of the 800th MP BDE, LTC (b)(6)-2 & (b)(7)(C)-2 Regional Defense Counsel, US Army Trial Defense Service, Military Counsel for BG Karpinski, stated:

(a) (U) The IO relied heavily on statements of COL (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 COL (b)(6)-2 & (b)(7)(C)-2 US Air Force, and the undocumented observations of the Investigating Team in reaching unfavorable findings.

(b) (U) COL (b)(6)-2 & (b)(7)(C)-2 by his own admission, visited Abu Ghraib approximately 10 times on matters related to the administrative review of records dealing with detained individuals. His observations were not focused and were recollections based on casual

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observations. COL (b)(6)-2 & (b)(7)(C)-2 did not live at the prison. His knowledge was suspect and could not provide the same weight as others.

(c) (U) LTC (b)(6)-2 & (b)(7)(C)-2 was only at Abu Ghraib. He had no knowledge to comment on matters of BG Karpinski's command climate, style, or effectiveness aside from his limited observations of MPs assigned to that facility.

(d) (U) COL (b)(6)-2 & (b)(7)(C)-2 assessment was the opinion of a psychologist. It was not fact and could not form the basis of any finding of fact, as it was not couched in the form of an opinion reliable to a medical certainty.

(e) (U) The undocumented observations of members of the Investigating Team could not form the basis of any finding of fact. Because the observations were not in writing, BG Karpinski could not refute what she did not know. The Investigating Team discounted the statements of LTC (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 1LT (b)(6)-2 & (b)(7)(C)-2, CPT (b)(6)-2 & (b)(7)(C)-2 CSM (b)(6)-2 & (b)(7)(C)-2, and other MP leaders who served in the 800th MP BDE. Their statements were replete with praise and admiration of BG Karpinski's clear guidance, firm, fair, and common sense enforcement of standards, her caring for the Soldiers, and her constant visits to see the Soldiers where they worked. They knew she tried her best to obtain support and replacements and higher did not respond to those requests.

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(f) (U) BG Karpinski's failure to relieve or replace LTC [redacted] ignored the fact that there was no replacement mechanism for Soldiers leaving the BDE. As to other dysfunctional individuals, the lack of replacements made their continued service essential.

(g) (U) Regarding the lack of BDE METL, this was a non-doctrinal mission. Upon receipt of the confinement mission, the BDE provided subordinate units necessary guidance to conduct individual site planning and training. At the individual level, the BDE relied on Soldiers with civilian correction backgrounds and individual initiative.

(h) (U) The findings of lack of GC training, SOPs, and basic Soldier proficiency were without merit. Multiple testimonies noted the training Soldiers received at the Mobilization site and during deployment. The actions of Soldiers facing abuse charges were so far out of the norm, that to conclude additional training would have prevented those actions was ludicrous. It was 800th MP BDE Soldiers who reported the Abu

Ghraib and earlier Camp Bucca abuse. This proved that her Soldiers were trained and respected human rights.

(i) (U) The finding of a failure to articulate and enforce standards resulted from a misunderstanding of testimony and an interesting spin on the results of a commander disciplining her Soldiers. The decision to allow MPs to wear civilian clothes after duty hours was made to boost morale. CSM [redacted] testified that they used common sense in correcting uniform deficiencies as there were no barbers or tailors on site. Soldiers in the 165th MI BN routinely wore non-regulatory items with the implied consent of the MI leaders. It was odd to list 12 separate disciplinary actions BG Karpinski initiated or completed against members of her command as proof or failure to enforce standards. The adherent [sic] behavior of a few should not be the basis for a generalized finding. The finding of Soldiers writing poems and other sayings on their helmets and caps was void of evidence.

(j) (U) This investigation occurred after the bulk of the BDE had either packed up or redeployed. The inability to produce reports, journals, logs, and SOPs could be attributed to these activities. (EXHIBIT C-3)

(4) (U) In an unsworn memorandum for the CDR, CFLCC, dated 1 April 2004, subject: Rebuttal to AR 15-6 Investigation of the 800th MP BDE, BG Karpinski stated:

(a) (U) The BDE was certified by the 78th Training Support Division, Fort Dix, as "trained and ready for deployment, to conduct Enemy Prisoner of War (EPW) processing and holding missions in theater." They were assigned new missions that included rebuilding and operating confinement facilities for all of Iraq and operating the High Value Detainee facility, and she contended that again and again, the BDE successfully accomplished those missions.

(b) (U) That investigators failed to question subordinate CDRs who stated she visited her units, was clear in her guidance and directions, and was firm and fair in upholding standards and upholding discipline.

(c) (U) The BDE suffered with diminishing personnel strength without benefit of a personnel replacement system. Critical positions were filled with less experienced personnel due to medical and emergency redeployments. (EXHIBIT C-4)

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(5) (U) In an unsworn letter, dated 14 March 2004, to LTG McKiernan, LTC (b)(6)-2 & (b)(7)(C)-2 XO, 800th MP BDE, stated:

(a) (U) BG Karpinski assumed command in June 2003 with significant damage already done to her BDE. She was left to take action on her CSM when no one else would. A formal investigation was initiated which resulted in relief of the CSM.

(b) (U) She sought assistance from CJTF-7, but no additional Soldiers were provided. There was no personnel replacement system to fill vacant positions.

(c) (U) The Coalition Provisional Authority (CPA) was responsible for rebuilding the prisons and training the Iraqi guards. This did not happen, which forced BG Karpinski to provide CPA with Soldiers to assist in the reconstruction of jails. She did this in an attempt to get the detainees out of the overpopulated facilities and to provide detainees with better living conditions.

(d) (U) He strongly believed that if it were not for BG Karpinski's strong leadership, perseverance, and tireless efforts, some Soldiers would not have returned safely. (EXHIBIT C-4, pages 12-14)

(6) (U) In an unsworn letter, dated 19 March 2004, to LTG McKiernan, LTC (b)(6)-2 & (b)(7)(C)-2 former CDR, 400th MP BN, praised BG Karpinski's leadership. (EXHIBIT C-4, page 15)

(7) (U) In an unsworn letter, dated 19 March 2004, to LTG McKiernan, LTC (b)(6)-2 & (b)(7)(C)-2 CDR, 324th MP BN, praised BG Karpinski's leadership. (EXHIBIT C-4, pages 16-17)

(8) (U) In an unsworn letter, dated 20 March 2004, to LTG McKiernan, MAJ (b)(6)-2 & (b)(7)(C)-2 CDR, 400th MP BN, praised BG Karpinski's leadership. (EXHIBIT C-4, pages 18-19)

(9) (U) In an unsworn letter, dated 27 March 2004, to LTG McKiernan, SGM (b)(6)-2 & (b)(7)(C)-2 stated:

(a) (U) During the AR 15-6 investigation, he was asked about reinforcement corrections training given by a Mobile Training Team (MTT) in November 2003, and how the BDE informed the BNs to conduct the training. He sent a memorandum concerning the training to every BN. He did not conduct a follow-up check to confirm the BNs conducted the training. The BDE S-3 staff was short-handed, and it was difficult to conduct BN assessments of various new types of missions across eight BNs.

(b) (U) He personally failed to ensure the BNs followed through on the direction to conduct refresher training. His staff's failure to check was not due to willful non-compliance or negligence. The BDE was very busy with its many missions, made more difficult by the high threat environment and the shortage of S-3 personnel. (EXHIBIT C-4, pages 20-25)

(10) (U) In an unsigned memorandum, dated 26 March 2004, subject: BDE Soldier Training Assessment, SGM (b)(6)-2 & (b)(7)(C)-2 Operations SGM, 800th MP BDE, stated that his assessment of Soldier training when he arrived in Baghdad in August 2003, was that Soldiers knew how to guard prisoners and "run their particular tasks" in camps. It was "incumbent" on the camp CDRs, BN S-3s, and CO CDRs to ensure Soldiers were trained. No senior NCO expressed concerns about training shortfalls to him. The BDE "accommodated the facilitation" of refresher corrections training, refresher Rules of Engagement (ROE) training, and Geneva Convention training. (EXHIBIT C-4, pages 26-27)

(11) (U) In an unsworn and unsigned letter, dated 18 March 2004, to LTG McKiernan, MAJ (b)(6)-2 & (b)(7)(C)-2 S3, 800th MP BN, praised BG Karpinski's leadership. (EXHIBIT C-4, pages 28-30)

[IO Note: (U) CPT (b)(6)-2 & (b)(7)(C)-2 was promoted to MAJ following the unit's redeployment.]

(12) (U) In an unsworn letter, dated 24 March 2004, to LTG McKiernan, CPT (b)(6)-2 & (b)(7)(C)-2 CDR, 381st MP Detachment, praised BG Karpinski's leadership. (EXHIBIT C-4, pages 31-34)

(13) (U) In an unsworn letter, dated 24 March 2004, to LTG McKiernan, Chaplain (MAJ) (b)(6)-2 & (b)(7)(C)-2 Acting OIC, 110th Chaplain Detachment, praised BG Karpinski's leadership. (EXHIBIT C-4, page 35)

(14) (U) A document, entitled "800th MP BDE Iraqi Confinement Concept", dated 15 June 2003, indicated that the 800th MP BDE was tasked to conduct EPW, Detainee, High Value Detainee, Criminal Detention, and Jail and Prison Operations throughout the CJTF-7 area of operation until mission complete or replaced by rotational units. (EXHIBIT C-4, page 40)

[IO Note: (U) The document contained no guidance concerning the training of 800th MP BDE units for these missions.]

(15) (U) In a memorandum for record, dated 16 January 2004,subject: AR 15-6 Corrective Measures Spot Assessment of BCCF, MSG (b)(6)-2 & (b)(7)(C)-2 OPS SGT, documented a spot assessment of BCCF as a result of an AR 15-6 investigation. (EXHIBIT C-4, pages 41-46)

[IO Note: (U) This memorandum was dated after the alleged occurrences of detainee abuse which initiated the AR 15-6 investigation conducted by MG Taguba.]

(16) (U) A document, entitled "800th MP BDE Rules of Engagement (ROE) for Operations in Iraq", unsigned, indicated it was effective 30 November 2003, and described the rules for detainee operations. (EXHIBIT C-4, pages 70-71)

[IO Note: (U) This document was dated after the alleged occurrences of detainee abuse which initiated the AR 15-6 investigation conducted by MG Taguba.]

(17) (U) In a PowerPoint briefing, undated, subject: Security and Accountability Procedures for Transfer of Security Internees and Prisoners, defined the roles and responsibilities of units involved in transfer of detainees between detention facilities and civilian court in order to prevent escape. (EXHIBIT C-4, pages 47-56)

[IO Note: (U) The only identifying feature on the PowerPoint briefing was the logo of the CJTF.]

(18) (U) An unsigned memorandum with the signature block, (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 MP, USAR, Operations Officer, dated 21 January 2004, subject: SOP for Transporting Detainees, described the roles and responsibilities for units in 800th MP BDE for transporting detainees to and from detention facilities in Iraq. (EXHIBIT C-4, pages 57-64)

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[IO Note: (U) This memorandum was dated after the alleged occurrences of detainee abuse which initiated the AR 15-6 investigation conducted by MG Taguba.]

(19) (U) A Baghdad Jails SOP, dated 30 June 2003, documented the procedures within the downtown Baghdad jails. (EXHIBIT C-4, pages 65-67)

(20) (U) In a memorandum for all soldiers, dated 18 January 2004, subject: Contacts for Physical Abuse of any Detainee within Theater, the IG, 800th MP BDE, provided contact information for reporting detainee abuse. (EXHIBIT C-4, pages 68-69)

[IO Note: (U) This memorandum was dated after the alleged occurrences of detainee abuse which initiated the AR 15-6 investigation conducted by MG Taguba.]

(21) (U) An 800th MP BDE FRAGO, dated 29 December 2003, subject: ROE Training, indicated that each 800th MP BDE battalion was required to conduct training on the new ROE. Training vignettes were attached. (EXHIBIT C-4, page 72-80)

[IO Note: (U) This FRAGO was dated after the alleged occurrences of detainee abuse which initiated the AR 15-6 investigation conducted by MG Taguba.]

(22) (U) In a memorandum for LTG McKiernan, dated 4 April 2004, subject: Comments on BG Karpinski's and LTC (b)(6)-2 & (b)(7)(C)-2 Rebuttal Statements, MG Taguba stated:

(a) (U) "The 800th MP BDE, as a command and control HQ [Headquarters], did not train as an entire brigade headquarters during its post-mob training at Ft Dix, NJ.. In fact, the BDE CDR, BG Paul Hill, and a slice of his HQ was already in theater in Jan 03, while the rest of the BDE HQ was still mobilizing/deploying to Ft Dix in 3 different segments-an early entry C2 module under the BDE S-2, an S3 module under the S3, and CSS module under the S4. They were not consolidated and were trained separately by the 78th TSD personnel predominantly on common tasks vice specific I/R missions. This was substantiated from statements of the BDE S2, MAJ (b)(6)-2 & (b)(7)(C)-2 and MAJ (b)(6)-2 & (b)(7)(C)-2 BDE S-3.

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(b) (U) Of the units assigned to the 800th to conduct I/R mission, only the 310th MP BN was trained on I/R tasks at Fort Dix, NJ and the 22nd MP CO, VARNG [Virginia Army National Guard], was trained on I/R tasks at Camp Atterbury, IN.

(c) (U) ..."The 15-6 Investigation Team made every effort to interview senior leaders and junior Soldiers alike to determine the command climate of the 800th MP BDE and its subordinate units in the time allocated to the investigation. Given the operating environment of conducting detainee operations in theater from April 03 to Jan 04, the challenges posed by shortage of personnel, increasing force protection concerns, and numerous incidents of indiscipline and misconduct displayed by senior leaders under the command of BG Karpinski, the preponderance of responses from those we interviewed gave the indication that a mediocre to negative command climate existed throughout the brigade during her tenure. Further, of the 11 individuals who provided comments on behalf of BG Karpinski, the investigation team interviewed 3- LTC (b)(6)-2 & (b)(7)(C)-2 -BDE XO, SGM (b)(6)-2 & (b)(7)(C)-2 -BDE OPNS SGM/Acting BDE CSM, 1LT (b)(6)-2 & (b)(7)(C)-2 Aide de Camp to BG Karpinski. All three provided conflicting accounts of incidents of detainee abuse, detainee accountability and escapes, training and combat readiness of the brigade, and command climate. In several instances, their responses seemed to have been rehearsed or collaborated previously with those we had interviewed earlier which indicated knowledge of questions that were being posed to them.

(d) (U) While BG Karpinski purported to be passionate about her Soldiers, there were several instances where her responses to questions were highly critical of her leaders-in particular LTG Sanchez and MG Wojdakowski. ...Her tone was one of contempt, defiance, and bordered on insubordination.

(e) (U) BG Karpinski, in her rebuttal statement, still separates herself from accepting any responsibility for the actions of several Soldiers who committed crimes against detainees held under their care. ...Her rebuttal statement still reflects the arrogance and deflection of responsibility without a sense of remorse and embarrassment that senior leaders and Soldiers under her command have placed on US and Coalition forces."

[IO Note: (U) The above comments referenced and were in response to BG Karpinski's rebuttal.]

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(f) (U) "The investigation Team relied heavily on the oral interviews, written statements of those who were involved or had knowledge of detainee abuses and matters related to the overall readiness of the 800th MP Brigade, visits to the four detention facilities, and the numerous documents we examined. Statements of COL (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 and COL (b)(6)-2 & (b)(7)(C)-2 were not compelling enough to arrive at the findings of the investigation, though they contributed in our deliberations.

(g) (U) The statements by LTC (b)(6)-2 & (b)(7)(C)-2 XO 800th MP BDE, LTC (b)(6)-2 & (b)(7)(C)-2 CDR 744th MP BN, 1LT (b)(6)-2 & (b)(7)(C)-2 aide-de-camp to BG Karpinski and others were not discounted. On the contrary, they helped paint the existence of disparate and varied sets of operating procedures, SOPs, and guidance from which units under the 800th MP BDE operated which led the investigation team to determine that there were inconsistencies and non-doctrinal procedures in accounting for detainees, reporting of escapes, shootings, intermittent submissions of serious incident reports, non-compliance with command guidance, and a lack of discipline among the Soldiers and units.

(h) (U) ...BG Karpinski was constantly reminded about the conditions at Abu Ghraib by MG Wojdakowski and how improvements in detention operations, QOL [quality of life], and base operations were not being met. In fact, visits from LTG Sanchez, MG Wojdakowski, and BG Fast, CJTF-7 led to COL [redacted] b(6)-2 CDR 205th MI BDE to be appointed as the FOB [Forward Operating Base] CDR on 19 Nov by CDR, CJTF-7.

b(6)-2

(i) (U) ...She fully recognized the poor performance of LTC [redacted] CDR, 320th MP BN, from Sep-Dec 03, yet failed to take the required actions to relieve or replace him. She was also remiss in providing the 320th MP BN with a XO and Battalion CSM during this time period. Essentially, she continued to reinforce failure more so than find the correct solution to replace LTC [redacted] b(6)-2 and help the unit with senior leadership shortfalls. Moreover it was her responsibility to acknowledge and support the TACON responsibility of COL [redacted] in carrying his duties as the FOB from which she failed to do.

b(6)-2

(j) (U) ...with regards to MP Soldiers having adequate knowledge of the Geneva Convention training, it was evident during the course of the investigation that senior leaders and Soldiers in her subordinate units could not articulate the requirements of the Geneva Convention IAW AR 190-8 and that it be posted in the detention facilities in the language of the detainees-in Pashtun, Farsi, Arabic, etc. During numerous visits to the 4 theater detention facilities, we emphatically reminded the commanders and their leaders to post the Geneva Convention around the camps and to provide copies of the GC should a detainee request one.

(k) (U) In fact, at our last visit to the Abu Ghraib Complex in 12 Feb 04, the only noticeable sign was from the 800th MP BDE IG [Inspector General] indicating that any suspicion of detainee abuse should be reported immediately to the IG...not to the MP BN CDR or MP BDE CDR.

(l) (U) ...It is most interesting that the SPC [Specialist] from the 372d MP CO [Company] who reported the alleged abuses of detainees did not report it to his chain of command, but reported it to law enforcement officials. This brings into question the lack of trust and confidence of the Soldier in his entire chain of command to take the necessary action on any matters regarding abuse or Soldier misconduct.

[ IO Note: (U) Although Soldiers are encouraged to report allegations utilizing their chain of command, regulations authorize and encourage reporting allegations by whatever means with which the complainant feels the most comfortable.]

(m) (U) Competent leadership and presence, discipline, command emphasis, adherence to Army standards, and COMCJTF-7 command guidance would have prevented these abuses.

(n) (U) ...The matter of whether units under the 800th MP Brigade were redeploying is not relevant. The investigation focused on the Abu Ghraib detention complex that was still under the command and control of the 320th MP BN with its assigned elements and was the key unit involved in the alleged abuses and maltreatment of detainees. They had been at Abu Ghraib from June 03 until Mar 04.

(o) (U) The statements of witnesses that were interviewed and sworn statements of other witnesses were proof enough to determine that there were lapses in reporting detainee accountability, inconsistent accounting procedures, non-reporting of serious incident reports to higher headquarters, and improper procedures in the handling of detainees at Abu Ghraib and Camp Bucca.

(p) (U) ... Para 6. The matter that BG Karpinski was the first and only female general officer to lead Soldiers in combat was not material. The statement by LTC (b)(6)-2 & (b)(7)(C)-2 suggests that COMCFLCC be cautious in administering any administrative action against BG Karpinski.

(q) (U) ...What is obvious was her lack of foresight to recognize the gravity of her mission in theater detention operations, her inability to take prompt actions and to exact corrective measures, and to make due demands on her leaders to comply with established rules and regulations to include her own command policies, and her inability to make command decisions to correct serious deficiencies of which she fully recognized that ultimately resulted in a perversive [sic] command environment. (EXHIBIT C-5)

[IO Note: (U) The above statements referenced and were in response to LTC (b)(6)-2 & (b)(7)(C)-2 memorandum.]

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(23) (U) In a DA Form 1574, Report of Proceedings by IO, LTG McKiernan approved the Taguba AR 15-6 report. (EXHIBIT C-6)

(24) (U) The Investigation of Intelligence Activities at Abu Ghraib Report, dated 23 August 2004, approved by GEN Paul Kern, CDR, AMC, reflected:

(a) (U) Indications and warnings surfaced at the CJTF-7 level that additional oversight and corrective actions were needed in handling detainees from point of capture through the central collection facilities, to include Abu Ghraib. Examples: incident at Camp Cropper; ICRC reports on handling detainees; ICRC reports on Abu Ghraib detainee conditions and treatment; CID investigations and disciplinary actions taken by CDRs; death of an OGA detainee at Abu Ghraib; lack of adequate system for identification and accountability of detainees; DIV CDR concerns that intelligence information was not returning to the tactical level once detainees were evacuated to central holding facility. (p. 12)

(b) (U) Leadership failure, at the BDE-level and below, clearly was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents. The leaders from the 205th MI and 800th MP BDEs located at Abu Ghraib or with supervision over Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers and failed to develop and learn from AARs and lessons learned. These leaders failed to provide adequate mission-specific training to execute a mission of this magnitude and complexity. (p. 17)

(c) (U) The relationship between the leaders and staffs of the 800th MP BDE and 205th MI BDE were ineffective as they failed to effect the proper coordination of roles and responsibilities for detention and interrogation operations. (p. 24)

[IO Note: (U) The above evidence was part of the AR 15-6 Investigation of the Abu Ghraib Prison and the 205th MI BDE conducted by LTG Anthony Jones. The focus of this investigation was not specifically the 800th MP BDE.]

(d) (U) BG Karpinski was the only person among the Army leadership involved who interpreted FRAGO 1108 differently (FRAGO appointing COL [redacted] as FOB CDR). (p. 55)

b(6)-2

(e) (U) On 24 December 2003, BG Karpinski signed a response to the ICRC, prepared by the Staff Judge Advocate (SJA), CJTF-7, regarding ICRC's concerns about the treatment of detainees at Abu Ghraib. Her letter primarily addressed denial of access to certain detainees by the ICRC. It tended to gloss over, close to the point of denying, the inhumane treatment, humiliation, and abuse identified by the ICRC. (p. 67)

(f) (U) Neither the leadership (of Abu Ghraib) nor CJTF-7 made any attempt to verify the allegations (of detainee abuse made by the ICRC). (p. 119) (EXHIBIT C-14)

[IO Note: (U) The above evidence was part of the Procedure 15 Investigation of the Abu Ghraib Detention Facility and the 205th MI BDE conducted by MG George Fay. The focus of this investigation was not specifically the 800th MP BDE.]

(25) (U) In a memorandum, dated 25 May 2003, subject, Memorandum of Reprimand, LTG McKiernan reprimanded MAJ (b)(6)-2 & (b)(7)(C)-2 Headquarters and Headquarters Company, 320th MP BN, for failure to take action concerning observing Soldiers consume alcohol. (EXHIBIT C-17)

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(26) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded LTC [redacted] 400th MP BN, for the lack of training on proper weapons clearing procedures within LTC [redacted] BN. (EXHIBIT C-18)

(27) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded CPT [redacted] 770th MP Company, for the lack of training on proper weapons clearing procedures within his unit. (EXHIBIT C-21)

(28) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded CSM [redacted] 400th MP BN, for the lack of training on proper weapons clearing procedures within his unit. (EXHIBIT C-22)

(29) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded 1SG [redacted] 770th MP Company, for the lack of training on proper weapons clearing procedures within his unit. (EXHIBIT C-33)

(30) (U) In a memorandum, dated 16 September 2003, subject, Reprimand UP AR 600-37, BG Karpinski reprimanded CSM [redacted] 800th MP BDE, for his inappropriate behavior with a junior enlisted soldier. (EXHIBIT C-26)

(31) (U) In a memorandum, dated 10 November 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded LTC [redacted] 320th MP BN, for LTC [redacted] lack of leadership. (EXHIBIT C-19)

(32) (U) In a memorandum, dated 10 November 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded MAJ [redacted] Headquarters and Headquarters Company, 320th MP BN, for MAJ [redacted] lack of leadership. (EXHIBIT C-20)

(33) (U) The DAIG Detainee Operations Inspection Report, dated 21 July 2004, Finding 23, reflected that interviewed leaders and Soldiers in both Iraq and Afghanistan indicated their Law of War refresher training was not detailed enough to sustain their knowledge obtained during initial and advanced training. The inspection results indicated that leaders and Soldiers from inspected units who commented on Law of War training stated that they did receive some Law of War training, but 57% (272 of 474) of

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leaders and Soldiers indicated that the training was generic and did not prepare them for the current operating environment. (EXHIBIT C-24)

(34) (U) FRAGO 209 to CJTF-7 OPORD 03-036, dated 28 June 2003, assigned responsibilities to the 800th MP BDE concerning detainee operations. (EXHIBIT C-25)

(35) (U) FRAGO 1108 to CJTF-7 OPORD 03-036, dated 19 November 2004, appointed the CDR, 205th MI BDE as the FOB CDR. The CDR, 205th MI BDE assumed responsibility for the BCCF. Units at BCCF were TACON to the 205th MI BDE for security of detainees and FOB protection. (EXHIBIT C-23)

(36) (U) In a draft officer evaluation report (OER), period covered 4 February 2003 thru 3 February 2004, BG Michael Diamond, CG, 377th Theater Support Command, rated and LTG McKiernan senior rated BG Karpinski. BG Karpinski's duty title was BDE CDR. Her duties included:

(a) (U) CDR of the 800th MP BDE responsible for all confinement and detention operations in the Iraqi Theater of War in support of Operation Iraqi Freedom, to include EPW, Security Internees and Criminal Detainees.

(b) (U) Conduct contingency planning for, and execute command and control of, confinement operations in support of CJTF-7 stabilization operations throughout Iraq.

(c) (U) Responsible for all aspects of command in order to gain and maintain operational readiness for wartime missions. (EXHIBIT C-28)

(37) (U) AR 600-20, Army Command Policy, dated 13 May 2002, stated in paragraph 1-5 that professionally competent leaders would develop respect for their authority by properly training their Soldiers and ensuring that both Soldiers and equipment were in the proper state of readiness at all times. The CDR was responsible for establishing the leadership climate and developing disciplined and cohesive units, and for the professional development of their Soldiers. CDRs committed to the Army ethic promoted a positive environment. In Chapter 4, it stated that CDRs and other leaders would maintain discipline, and that ensuring the proper conduct of Soldiers was a function of command. CDRs would take action consistent with Army regulation in any case where a Soldier's conduct violated good order and military discipline. (EXHIBIT B-2)

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(38) (U) The Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War stated in Article 99, "The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee." (EXHIBIT C-29)

(39) (U) AR 600-100, Army Leadership, dated 17 September 1993, stated:

(a) (U) In paragraph 2-1, that all leaders are responsible for accomplishing the unit's mission; anticipating, managing, and exploiting change; anticipating and solving problems; and acting decisively under pressure.

(b) (U) In paragraph 1-7, that senior level leadership existed in more complex organizations. This level included military and civilian leaders at the BDE through corps levels in tactical units. Senior leaders tailored resources to organizations and programs and set command climate. Skills required for effective leadership at this level included technical and tactical competence on synchronizing systems and organizations, sophisticated problem solving, interpersonal skills, shaping organizational structure and directing operations of complex systems, tailoring resources to organizations or programs, and establishing policies that foster a healthy command climate. (EXHIBIT C-31)

(40) (U) FM 7-0, Training the Force, dated October 2002, stated in paragraph 3.22, "In cases where mission tasks involve emerging doctrine or non-standard tasks, commanders establish tasks, conditions, and standards using mission orders and guidance, lessons learned from similar operations, and their professional judgment" (EXHIBIT C-32)

(41) (U) In a letter to MG Green, Deputy The Inspector General, dated 19 September 2004, subject: Response of BG Karpinski to DAIG Investigation, BG Karpinski stated:

(a) (U) The allegation that she was derelict in her duties was without merit. The BDE's mission in support of OIF was to detain EPW until cessation of hostilities and repatriation. To that end, and prior to her assumption of command, the BDE was trained on the doctrinal mission, which coincided with its wartime METL. While the

AR 15-6 investigation highlighted the lack of a BDE level METL for operating a correctional facility and training to that METL, correctional operations was a non-doctrinal mission for the BDE. Consistent with the BDE's EPW mission, between March and June 2003, the BDE conducted EPW operations in Umm Qasr, Iraq, under the command of BG Paul Hill.

(b) (U) Despite its smaller size and facing more losses due to Soldier re-deployment, and not withstanding the abuse anomalies at Abu Ghraib, the BDE performed its mission in an outstanding manner. Personnel and equipment authorizations did not meet the specified mission requirements. The AR 15-6 investigation confirmed that shortage. Additionally, Soldiers rotated back to the US without a system to replace them. While running detention operations, the BDE was constantly under mortar, small arms fire, and RPG attacks. In these attacks, 2 Soldiers were killed, 6 detainees were killed, and 71 detainees were wounded.

(c) (U) Prior to the initial attack and after the attacks began, she repeatedly requested support from CJTF-7 to provide force protection assets; however, the BDE was told to use internal assets. She had been criticized for allegedly assigning a single unreinforced BN to guard 7,000 prisoners at BCCF, while detailing a full BN to the high value detainee facility guarding about 100. She did assign a BN to guard 7,000 prisoners at BCCF. The BN was reinforced by three additional companies, making it almost two BNs in number of soldiers assigned. As for the BN guarding the high value detainees, a significantly higher responsibility than BCCF, it was also responsible for the Camp Cropper Corps Holding Area, which had an approximately 1,000 detainees. Additionally, this BN was responsible for providing its own force protection, transportation, medical, and logistics.

(d) (U) The findings regarding the reporting and accounting of detainees was misleading. The 800th BDE developed approximately 16 different types of spreadsheets to report/record and account for all categories of detainees. It was the CPA's responsibility to develop a national criminal detainee database as set forth in their July 2003 information paper. Notwithstanding the failures of CPA, the BDE, with little support, developed a database of over 40,000 detainees. While there were certainly some errors in the database, the BDE did not fail to maintain accountability of detainees and prisoners. In fact, while most requests were answered immediately, no request for the status of any detainee/prisoner went unresolved for more than 72 hours.

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(e) (U) The BDE never sanctioned the moving of detainees to hide them from the ICRC. The only occasion that the BDE knew of this happening was when LTG Sanchez directed it in a fragmentary order. The BDE immediately objected to the implementation of the order and contacted the CJTF-7 SJA. The BDE was told to implement the order.

(f) (U) The AR 15-6 investigation included an inaccurate finding of wrongdoing on her part regarding riots, escapes, and shootings. While there were some escapes, the MP's guarding the facilities not only had to operate detention operations without proper equipment, they also had to do so in a hostile environment. Despite not having sufficient forces to guard the number of prisoners/detainees, despite the fact that the facilities were regularly attacked, and the fact the MPs did not have appropriate equipment for these conditions, the total number of escapees numbered less than one percent of the prison population. The only riot that occurred during her tenure was at Abu Ghraib. The riot occurred after command of Abu Ghraib was transferred to COL [redacted] and the MI community.

b(6)-2

(g) (U) The findings of a lack of GC training, SOP's on dealing with detainees, and basic soldier proficiency were without merit. Testimony from LTC (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 MAJ (b)(6)-2 & (b)(7)(C)-2 2LT (b)(6)-2 & (b)(7)(C)-2 and others noted the training Soldiers received both at the mobilization site and during the course of the deployment. The actions of the Soldiers facing court-martial charges for abusing detainees were so far out of the norm, that to conclude that additional training in the foregoing would have prevented said misconduct is ludicrous. It was 800th BDE Soldiers who reported the Abu Ghraib and Camp Bucca abuses to the appropriate authorities. This reflected that her Soldiers were properly trained and that, as a unit, they respected and observed the fundamental rights of the detainees.

(h) (U) The allegation that she failed to relieve personnel in critical positions, and the contention these same leaders were somehow responsible for the abuse of detainees was factually incorrect. Prior to the discovery of the prisoner abuse scandal at Abu Ghraib, the only person in a critical position whose actions warranted being relieved was the BDE CSM, and he was relieved. Prior to January 2004, there was no evidence to support relieving CPT (b)(6)-2 & (b)(7)(C)-2 As for LTC [redacted] while he had leadership deficiencies, the correct procedures for counseling and mentoring were in place and were being exercised. The contention leadership failures of CPT (b)(6)-2 & (b)(7)(C)-2 and LTC [redacted] led to the abuse of detainees is unwarranted. The leadership failures

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b(7)(c)-2

b(6)-2 ; b(7)(c)-2

that resulted in the abuse of detainees at Abu Ghraib goes directly to LTC [redacted] and COL [redacted], and to LTG Sanchez and his working group on interrogation and detention operations from which she was intentionally and actively excluded.

b(6)-2 ; b(7)(c)-2

(i) (U) The BDE operated 17 facilities, and the only instance of prisoner abuse under her watch took place after command of Abu Ghraib and/or Tiers 1A and 1B were transferred to COL [redacted] and the MI community. The abuse of detainees was directly linked to LTG Sanchez's misguided order to adopt the interrogation techniques which were authorized for use at GTMO (Guantanamo) and Afghanistan into the Iraqi theater; LTG Sanchez's decision to adopt the recommendations of the MI community to use MPs to enhance interrogations; COL [redacted] decision to, directly or indirectly, authorize additional abusive interrogation techniques at Abu Ghraib and the use of MPs in said additional abusive interrogation techniques; and the MI community's failure to train (as promised by MG Miller) said MPs in executing said new duties and responsibilities. Of her 17 facilities, Abu Ghraib was the one in which MPs were being used to enhance interrogations and it was the only one that had allegations of prisoner abuse.

(j) (U) She felt that she was unfairly singled out because she was a reserve female GO. While the seven Soldiers charged with criminal abuse at Abu Ghraib belonged to her, and while she took command responsibility for their actions, she was the only GO being held responsible for any of the abuses that occurred. Prior to assuming command, 10 Soldiers from the BDE were found culpable for prisoner abuse at Bucca relating to the Jessica Lynch incident. Nonetheless, BG Hill was never relieved or admonished for said misconduct. Likewise, when LTC (b)(6)-2 & (b)(7)(c)-2 abused a detainee, and after (b)(7)(A) MG Odierno, their immediate superior, was never relieved or admonished for said misconduct. Likewise, COL [redacted] and LTC [redacted] have been found culpable of committing abuses at Abu Ghraib. Notwithstanding the same, their direct superiors, MG Fast and LTG Sanchez have not been relieved or admonished for said misconduct. While she had no command responsibility for, or knowledge of, the abusive interrogation techniques that were improperly brought into Abu Ghraib from GTMO and Afghanistan, LTG Sanchez was directly involved in such and directly supervised the officers that, through their leadership failures and misconduct, resulted in further abuses at Abu Ghraib and which corrupted the Soldiers in her command.

b(6)-2
b(7)(c)-2

(k) (U) There were 66 total substantiated instances of abuse of which eight occurred in GTMO and three in Afghanistan. Of the 66 incidents, five detainees died from interrogation techniques. Notwithstanding the foregoing, notwithstanding the fact that none of the Soldiers in her BDE had been accused of causing the death of a detainee, and notwithstanding the fact that the Soldiers in the BDE committed only a small fraction of the 66 substantiated cases of abuse, she was the only GO being admonished and/or suspended from command. (EXHIBIT C-13)

b(3)

[redacted]

[redacted]

[IO Note: The ICRC Report highlighted other areas of concern which included quarters, material conditions of detention, water and personal hygiene, food, religious activities, family visits, and judicial guarantees.]

[redacted]

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(44) (U/FOUO) In a letter to the ICRC Protection Coordinator, dated 24 December 2003, BG Karpinski responded to the ICRC Report. Concerning the Baghdad Central Detention Facility, the letter stated:

b(6)-4

(a) (U/FOUO) "The alleged ill treatment of [redacted] [redacted] upon capture will be investigated and appropriate action taken if warranted. U.S. forces make the legal status, rights and judicial guarantees of all detainees a continuing priority in detention operations."

(b) (U/FOUO) "Concerning the interrogation of security internees, the questioning of a small number of internees selected for their significant intelligence value in Unit 1A is a military necessity. Our forces follow clear procedures governing interrogation to ensure approaches do not amount to inhumane treatment. As internees in Unit 1A undergo interrogation, they may be segregated for security purposes for the period of interrogation. Their right to communication may also be infringed for "absolute security" reasons as contemplated in GCIV/5.

(c) (U/FOUO) With regard to the criminal detainees in the common law sections, recreational activities should improve over time, as should family visits for this category of detainee. Despite obvious military security issues with respect to communication by security internees, means to allow family visits and other types of communication for these internees are being reviewed in order to balance humanitarian and security considerations. The rioting and shooting of a U.S. guard last month by a security internee using a pistol smuggled into the facility is a timely example of the need to ensure proper security measures are taken throughout the facility.

(d) (U/FOUO) Improvement can be made for the provisions of clothing, water and personal hygiene items. Efforts are ongoing to make continued improvements in these areas. As with the HVD facility, improvements are continually being made with regard to procedures relating to judicial guarantees." (EXHIBIT C-36)

c. (U) Testimony:

[redacted]

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(b)(7)(D)

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(5) (U) On 15 February 2004, BG Karpinski testified to the Taguba AR 15-6 investigation. (EXHIBIT D-9)

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d. (U) Discussion:

(1) (U) The Taguba AR 15-6 Report made eleven findings concerning BG Karpinski. The DAIG review combined nine of the eleven findings into one allegation that BG Karpinski was improperly derelict in the performance of her duties. The remaining two findings were addressed as separate allegations in this report. The DAIG's review of the Kern Report revealed evidence that BG Karpinski failed to properly respond to the ICRC report concerning the treatment of detainees at Abu Ghraib. Evidence in the Kern Report also indicated that BG Karpinski failed to properly exercise her authority and responsibilities to ensure force protection measures were adequate at Abu Ghraib. These two matters were addressed in the allegation that BG Karpinski was derelict in the performance of her duties. The DAIG review of the allegation considered the base reports and exhibits of the Taguba AR 15-6 Report, Kern Report, Weidenbush Report, Schlesinger Report, DAIG Inspection of Detainee Abuses, Ryder Report, and ~~the Miller Report, as well as rebuttals submitted by BG Karpinski and her attorneys.~~ The applicable standard was:

(a) (U) UCMJ, Article 92, stated any person subject to the UCMJ who was derelict in the performance of his/her duties would be punished as a court-martial directed. The elements of proof were: that the accused had certain duties; that the accused knew or reasonably should have known of the duties; and that the accused, through neglect or culpable inefficiency, was derelict in the performance of those duties.

(b) (U) The following standards and documents established the duties of BG Karpinski as CDR, 800th MP BDE:

1 (U) AR 600-100 stated all leaders were responsible for accomplishing the unit's mission; anticipating, managing, and exploiting change; anticipating and solving problems; and acting decisively under pressure.

2 (U) FM 7.0 stated commanders would establish tasks, conditions, and standards using mission orders and guidance when mission tasks involve emerging doctrine or non-standard tasks.

3 (U) AR 600-20 stated that professionally competent leaders would develop respect for their authority by properly training their Soldiers and ensuring that Soldiers

were in the proper state of readiness at all times. The CDR was responsible for establishing the leadership climate, developing disciplined and cohesive units, and for the professional development of their Soldiers. CDRs would maintain discipline, ensure the proper conduct of Soldiers, and would ensure Soldiers presented a neat, soldierly appearance.

4 (U) The Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War stated the Convention would be posted inside the place of internment, in a language which the internees understood.

(2) (U) **Concerning the evidence collected by DAIG indicating that BG Karpinski failed to properly exercise her authority and responsibilities to ensure force protection measures were adequate at Abu Ghraib.**

(a) (U) Duty: BG Karpinski's draft OER Duty Description established that she was responsible for all confinement and detention operations in the Iraqi Theater of War in support of Operation Iraqi Freedom, to include EPW, Security Internees and Criminal Detainees. Additionally, the draft OER established that she was responsible for conducting contingency planning for, and executing command and control of, confinement operations in support of CJTF-7 stabilization operations throughout Iraq. FRAGO 209 to CJTF-7 OPORD 03-036 assigned responsibilities to BG Karpinski concerning detainee operations.

(b)(7)(D)

[redacted]

(c) (U) Analysis of Dereliction:

(b)(7)(D)

(b)(7)(D)

3 (U) Although the Kern investigation focused on the 205th MI BDE, the Report found the leaders from the 205th MI and 800th MP BDEs located at Abu Ghraib or with supervision over Abu Ghraib, failed to supervise subordinates or provide direct

oversight. These leaders failed to provide adequate mission-specific training to execute a mission of this magnitude and complexity.

4 (U) In her rebuttal to DAIG, BG Karpinski stated prior to the initial attack and after the attacks began, she repeatedly requested support from CJTF-7 to provide force protection assets; however, the BDE was told to use internal assets. (b)(7)(D) [redacted] (b)(7)(D) [redacted]

(d) (U) Conclusion: The preponderance of evidence established that BG Karpinski failed to properly exercise her authority and responsibilities to ensure force protection measures were adequate at Abu Ghraib.

(3) (U) **Concerning the finding in the Taguba AR 15-6 Report that BG Karpinski failed to establish a BDE METL:**

(a) (U) Duty: Prior to 28 June 2003, the 800th MP BDE's mission was to detain EPW until cessation of hostilities and repatriation. FRAGO 209 to CJTF-7 OPORD 03- 036, dated 28 June 2003, assigned responsibilities to BG Karpinski concerning detainee operations. FM 7-0, Training the Force, stated in cases where mission tasks involve emerging doctrine or non-standard tasks, commanders establish tasks, conditions, and standards using mission orders and guidance, lessons learned from similar operations, and their professional judgment.

(b)(7)(D) [redacted]

(c) (U) Analysis of Dereliction:

1 (U) The Taguba AR 15-6 Report found that it did not appear that a METL based on in-theater missions was ever developed nor was a training plan implemented throughout the BDE. (b)(7)(D) [redacted]

(b)(7)(D) [redacted]

(b)(7)(D) [redacted]

3 (U) Upon receipt of the detainee operations mission, the command had a responsibility to conduct a mission analysis and review the BDE's METL appropriately. Both she and her counsel acknowledged this non-doctrinal mission and deficiencies in her Soldiers' training in detainee operations, yet there was no evidence of an

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appropriate or deliberate training plan to accomplish the mission.

(d) (U) Conclusion: The preponderance of evidence did not support the finding that BG Karpinski failed to establish a BDE METL; however, the preponderance of the evidence indicated that BG Karpinski, having been assigned the detainee operations mission, failed to properly analyze the mission, and failed to provide adequate guidance to her unit to conduct detainee operations.

(4) (U) **Concerning the findings in the Taguba AR 15-6 Report that BG Karpinski failed to ensure that MP Soldiers had appropriate SOPs for dealing with detainees and that CDRs and Soldiers read and understood the SOPs; that she failed to ensure that numerous reported accountability lapses at detention facilities were corrected; and that she failed to ensure the results and recommendations of AARs and AR 15-6 investigation reports on detainee escapes and shootings were properly disseminated:**

(a) (U) Duty: FM 7-0, Training the Force, stated in cases where mission tasks involve emerging doctrine or non-standard tasks, commanders establish tasks, conditions, and standards using mission orders and guidance, lessons learned from similar operations, and their professional judgment. FRAGO 209 to CJTF-7 OPORD 03-036, dated 28 June 2003, assigned responsibilities to BG Karpinski concerning detainee operations.

(b) (U) Knowledge: In her letter to DAIG, BG Karpinski stated the BDE's mission was to detain EPW until cessation of hostilities and repatriation. To that end, and prior to her assumption of command, the BDE was trained on the doctrinal mission, which coincided with its wartime METL. While the Taguba AR 15-6 Report highlighted the lack of a BDE METL for operating a correctional facility and training to that METL, correctional operations was a non-doctrinal mission for the BDE. Additionally, during BG Karpinski's command, three of the four BNs assigned to the 800th MP BDE were from organizations outside the 800th MP BDE. (b)(7)(D) (b)(7)(D) (b)(7)(D) Additionally, BG Karpinski approved the 800th MP BDE AR 15-6 investigations while she was the CDR. The evidence established that BG Karpinski was aware that the 800th MP BDE mission changed from EPW to detainee operations. Additionally, she was aware of the results and recommendations of the AR 15-6 investigations that she approved while she was the 800th MP BDE CDR.

(c) (U) Analysis of Dereliction:

1 (U) The Taguba AR 15-6 report found that SOPs were not fully developed and standing TACSOPs were widely ignored. Any SOPs that did exist, the Soldiers were not trained on, and were never distributed to the lowest level. There was virtually a complete lack of detailed SOPs at any of the detention facilities. The Command never issued standard TTPs for handling escape incidents. Previous 800th MP BDE AR 15-6 investigations regarding detainee escapes were not acted upon, followed up with corrective action, or disseminated to subordinate CDRs or Soldiers. The Taguba AR 15-6 Report identified 27 escapes or attempted escapes from the detention facilities throughout the 800th MP BDE's AOR. AARs were not routinely being conducted after an escape or other serious incident. No lessons learned seem to have been disseminated to subordinate units to enable corrective action at the lowest level. There was no evidence that the majority of her orders directing the implementation of substantive changes were ever acted upon. Additionally, there was no follow-up by the command to verify corrective actions were taken. Moreover, despite the fact that there were numerous reported escapes at detention facilities throughout Iraq, AR 15-6 investigations following these escapes were simply forgotten or ignored by the BDE CDR with no dissemination to other facilities.

2 (U) Although the Kern investigation focused on the 205th MI BDE, the Report found that, at Abu Ghraib, there was lack of consistent policy and command oversight regarding interrogation techniques. The relationship between the leaders and staffs of the 800th MP BDE and 205th MI BDE was ineffective as it failed to effect the proper coordination of roles and responsibilities for detention and interrogation operations. Leadership failure, at the BDE-level and below, clearly was a factor in not sooner discovering and taking actions to prevent both the violent/sexual abuse incidents and the misinterpretation/confusion incidents. The leaders from the 205th MI and 800th MP BDEs located at Abu Ghraib or with supervision over Abu Ghraib, failed to supervise subordinates or provide direct oversight of this important mission. These leaders failed to properly discipline their Soldiers and failed to develop and learn from AARs and lessons learned. These leaders failed to provide adequate mission-specific training to execute a mission of this magnitude and complexity.

3 (U) In her rebuttal to LTG McKiernan, BG Karpinski provided numerous SOPs and policy memoranda; however, all but one of the documents was dated after the alleged detainee abuse was reported. BG Karpinski provided a memorandum for record where the OPS SGT assessed the BCCF as a result of an AR 15-6 investigation involving an escape. However, the date of the follow-up was after the alleged detainee abuse was reported.

4 (U) In her rebuttal to DAIG, BG Karpinski stated the 800th MP BDE developed approximately 16 different types of spreadsheets to report/record and account for all categories of detainees. Notwithstanding the failures of CPA, the BDE, with little support, developed a database of over 40,000 detainees. While there were certainly some errors in the database, the BDE did not fail to maintain accountability of detainees and prisoners. Despite not having sufficient forces to guard the number of prisoners/detainees, despite the fact that the facilities were regularly attacked, and the fact the MPs did not have appropriate equipment for these conditions, the total number of escapees numbered less than one percent of the prison population.

(b)(7)(D)

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7 (U) BG Karpinski's rebuttal statement addressed the means of how the BDE reported and accounted for detainees. Additionally her statement that she lacked sufficient forces, that the facilities were regularly attacked, and the MPs did not have appropriate equipment, failed to address how accountability lapses at detention facilities were corrected.

(d) (U) Conclusion: The preponderance of evidence indicated BG Karpinski failed to ensure that MP Soldiers had standardized, BDE wide SOPs for dealing with detainees and that she failed to ensure CDRs and Soldiers read and understood the SOPs that did exist; that she failed to ensure that numerous reported accountability lapses at detention facilities were corrected; and that she failed to ensure the results and recommendations of AARs and AR 15-6 investigation reports on detainee escapes and shootings were properly disseminated.

[IO Note: The Taguba Report finding was modified to better reflect the impropriety.]

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(5) (U) **Concerning the findings in the Taguba AR 15-6 Report that BG Karpinski failed to ensure that MP Soldiers knew, understood, and adhered to the GC relative to the treatment of POW, and that neither the camp rules nor the provisions of the GC were posted in English or in the language of the detainees at any of the detention facilities in the 800th MP BDE's AOR:**

(a) (U) Duty: The GC of 1949 relative to the Protection of Civilian Persons in Time of War stated the Convention would be posted inside the place of internment, in a language which the internees understood or be in the possession of the Internee Committee. FRAGO 209 to CJTF-7 OPORD 03-036, dated 28 June 2003, assigned responsibilities to BG Karpinski concerning detainee operations.

(b) (U) Knowledge: BG Karpinski's BDE was assigned the mission of detainee operations. The GC established requirements for treatment of detainees. By virtue of her position as the BDE CDR, she reasonably should have known of the requirements of the GC to post the GC and ensure that Soldiers understood them.

(c) (U) Analysis of Dereliction:

1 (U) The convention concerning civilians contained many of the same requirements as the POW convention, including the requirement to make copies of the

convention available and posting it in the native language of the detainees. The Taguba AR 15-6 Report found that few, if any copies of the GC were ever made available to MP personnel or detainees. (b)(7)(D) (b)(7)(D)

2 (U) Although the Taguba AR 15-6 Report found that BG Karpinski failed to ensure that MP Soldiers knew, understood, and adhered to the GC relative to the treatment of POW, the evidence in the Taguba 15-6 consisted of a statement of one company CDR concerning his company. Other Soldiers in the command stated that they were trained on the GC.

3 (U) In her rebuttal to DAIG, BG Karpinski stated that testimony from Soldiers within the 800th MP BDE noted the training that Soldiers received at both the mobilization site and during the course of the deployment, and that MG Taguba improperly discounted such testimony. (b)(7)(D) (b)(7)(D) (b)(7)(D) On the contrary, they helped paint the existence of disparate and varied sets of operating procedures, SOPs, and guidance from which units under the 800th MP BDE operated.

(d) (U) Conclusion: Although the evidence established that the GC were not posted in certain detention facilities, the evidence did not establish that BG Karpinski was aware of this failure. Although the evidence established that certain Soldiers did not know, understand, and adhere to the GC relative to the treatment of detainees, the evidence did not establish that this lack of knowledge was BDE wide. Therefore the preponderance of the evidence did not support finding dereliction of duty by BG Karpinski concerning this matter.

(6) (U) **Concerning the finding in the Taguba AR 15-6 Report that BG Karpinski failed to take appropriate action concerning the ineffective leadership and performance of a subordinate BN CDR and certain members of the BDE staff:**

(a) (U) Duty: AR 600-20 stated commanding officers exercised broad disciplinary powers in furtherance of their command responsibilities. Discretion, fairness, and sound judgment were essential ingredients of military justice.

(b) (U) Knowledge: AR 600-20 established disciplinary powers of the commanding officer. BG Karpinski was knowledgeable of the powers as she had taken a variety of action against Soldiers within her command.

(c) (U) Analysis of Dereliction: b(6)-2

1 (U) The Taguba AR 15-6 Report found that despite LTC [redacted] proven deficiencies as both a CDR and leader, BG Karpinski allowed LTC [redacted] to remain in command of her most troubled battalion guarding, by far, the largest number of detainees in the 800th MP BDE. Numerous witnesses stated that the 800th MP BDE S-1 and S-4 were essentially dysfunctional, but that despite numerous complaints, these officers were not replaced. This had a detrimental effect on the BDE Staff's effectiveness and morale.

2 (U) The evidence established that the 800th MP BDE was understrength and there was not a personnel replacement system. BG Karpinski was aware of proven deficiencies of certain CDRs and staff members. In her letter to DAIG, BG Karpinski stated prior to the discovery of the prisoner abuse scandal at Abu Ghraib, the only person in a critical position whose actions warranted being relieved was the BDE CSM, and he was relieved. As for (b)(7)(C) while he had leadership deficiencies, the correct procedures for counseling and mentoring were in place and were being exercised. The evidence established that BG Karpinski took appropriate disciplinary action against eight Soldiers under her command, to include (b)(7)(C) b(6)-2 b(6)-2

(d) (U) Conclusion: Given the fact that there was no personnel replacement system, the 800th MP BDE was understrength, and that BG Karpinski reprimanded numerous Soldiers under her command, the preponderance of evidence indicated that BG Karpinski took action concerning the ineffective leadership and performance of a subordinate BN CDR and certain members of the BDE staff.

(7) (U) **Concerning the findings in the Taguba AR 15-6 Report that BG Karpinski failed to ensure basic Soldier standards, and that she failed to establish basic proficiency in assigned tasks for Soldiers:**

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(a) (U) Duty: AR 600-20 stated that professionally competent leaders would develop respect for their authority by properly training their Soldiers and ensuring that Soldiers were in the proper state of readiness at all times. The CDR was responsible for establishing the leadership climate, developing disciplined and cohesive units, and for the professional development of their Soldiers. CDRs would maintain discipline, ensure the proper conduct of Soldiers, and would ensure Soldiers presented a neat, soldierly appearance. FRAGO 209 to CJTF-7 OPORD 03-036, dated 28 June 2003, assigned responsibilities to BG Karpinski concerning detainee operations.

(b) (U) Knowledge: AR 600-20 established responsibilities of CDRs for training of Soldiers within their command. By virtue of her position as the BDE CDR, she reasonably should have known of the requirements imposed by the AR 600-20. Furthermore, BG Karpinski was deemed to have constructive knowledge of the requirements imposed by AR 600-20.

(c) (U) Analysis of Dereliction:

1 (U) The Taguba AR 15-6 Report found the 800th MP BDE and subordinate units adopted non-doctrinal terms which contributed to the lapses in accountability and confusion at the soldier level. Operational journals at the various compounds and the 320th BN TOC contained numerous unprofessional entries and flippant comments, which highlighted the lack of discipline within the unit. Soldiers were poorly prepared and untrained to conduct I/R operations prior to deployment, at the mobilization site, upon arrival in theater, and throughout their mission. Soldiers throughout the 800th MP BDE were not proficient in their basic MOS skills, particularly regarding internment/resettlement operations. There was no evidence that the command, although aware of these deficiencies, attempted to correct them in any systemic manner other than ad hoc training by individuals with civilian corrections experience. The 800th MP BDE did not articulate or enforce clear and basic Soldier and Army standards.

2 (U) BG Karpinski's attorney, LTC (b)(6)-2 & (b)(7)(C)-2 stated the finding of a failure to articulate and enforce standards resulted from a misunderstanding of testimony and an interesting spin on the results of a commander disciplining her Soldiers. The decision to allow MPs to wear civilian clothes after duty hours was made to boost morale. It was odd to list 12 separate disciplinary actions BG Karpinski initiated or completed against

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members of her command as proof or failure to enforce standards. The adherent [sic] behavior of a few should not be the basis for a generalized finding.

3 (U) In her rebuttal to DAIG, BG Karpinski stated despite its smaller size and facing more losses due to Soldier re-deployment, and not withstanding the abuse anomalies at Abu Ghraib, the 800th MP BDE performed its mission in an outstanding manner. (b)(7)(D) (b)(7)(D) Additionally, the unit at Camp Ashcroft indicated that it had an accurate reporting system. Although there were noted deficiencies within the 800th MP BDE, there were units that performed the mission in a professional manner.

4 (U) The Taguba AR 15-6 Report identified certain instances where individuals were not familiar with AR 190-8, adopted non-doctrinal terms, operational journals contained unprofessional entries, and that certain Soldiers displayed a lack of discipline. A review of the Taguba AR 15-6 Report's supporting evidence indicated that these incidents were isolated and not systemic throughout the 800th MP BDE. The supporting evidence concerning the unprofessional entries was an extract from the Camp Ganci log. The supporting evidence concerning the lack of discipline was mainly attributed to the 229th MP CO. BG Karpinski did not command the 800th MP BDE prior to deployment, at the mobilization site, upon arrival in theater, or during the mission from January through 29 June 2003. The Taguba AR 15-6 Report's supporting evidence indicated that the lack of training was attributed to certain individuals and units, and not systemic throughout the 800th MP BDE.

(d) (U) Conclusion: The preponderance of evidence did not indicate that BG Karpinski failed to ensure basic Soldier standards and that she failed to establish basic proficiency in assigned tasks for Soldiers.

(8) (U) **Concerning the finding in the Kern report that BG Karpinski's 24 December 2003 response to the ICRC tended to gloss over, close to the point of denying, the inhumane treatment, humiliation, and abuse identified by the ICRC.**

(a) (U) Duty: AR 600-20 stated commanders would take action consistent with Army regulation in any case where a soldier's conduct violated good order and military discipline. BG Karpinski had a duty to take appropriate action once informed of possible abuses committed by members of her command.

(b) (U) Knowledge: As a CDR, BG Karpinski was aware of her responsibility to enforce discipline within her command. She had previously taken disciplinary action against Soldiers in her command who committed acts of misconduct.

(c) (U) Analysis of Dereliction: The ICRC completed a report of 800th MP BDE detention facilities which identified potential inhumane treatment of detainees. The Kern report found that BG Karpinski's 24 December 2003 response to the ICRC tended to gloss over, close to the point of denying, the inhumane treatment, humiliation, and abuse identified by the ICRC. (b)(5) [redacted] Although BG Karpinski's 24 December 2003 response to the ICRC did not address the alleged inhumane treatment of detainees, the CJTF-7 staff was aware of the allegations of mistreatment and the (b)(5) [redacted]

b(5)3

b(5)-3

(d) (U) Conclusion: The preponderance of the evidence indicated that BG Karpinski shared the ICRC's allegations with the CJTF-7 staff. Members of the staff then inquired into the allegations of inhumane treatment, humiliation, and abuse, and determined that the allegations were not credible. BG Karpinski's action in bringing the matter to the attention of the staff was appropriate. The staff's determination the allegations were not credible makes her response to the ICRC similarly appropriate. Although BG Karpinski did not address the alleged detainee inhumane treatment in her response to the ICRC, she took appropriate command action concerning the matter. The evidence did not establish that BG Karpinski failed to take appropriate action concerning the alleged abuse identified in the ICRC report.

(9) (U) In summary, the preponderance of evidence established that BG Karpinski failed to properly exercise her authority and responsibilities to ensure force protection measures were adequate at Abu Ghraib. The preponderance of

evidence indicated that BG Karpinski failed to properly analyze the mission and provide adequate guidance to her unit to conduct detainee operations; that she failed to ensure that MP Soldiers had standardized, BDE wide SOPs for dealing with detainees and that that she failed to ensure CDRs and Soldiers read and understood the SOPs that did exist; that she failed to ensure that numerous reported accountability lapses at detention facilities were corrected; and that she failed to ensure the results and recommendations of AARs and AR 15-6 investigation reports on detainee escapes and shootings were properly disseminated. Given the evidence contained in the Taguba AR 15-6 Report and the Kern Report, the testimony of (b)(6)-2 & (b)(7)(C)-2 (b)(6)-2 & (b)(7)(C)-2 and taking into consideration the rebuttals submitted by BG Karpinski and her attorney, the preponderance of evidence established that BG Karpinski was improperly derelict in the performance of her duties.

e. (U) Conclusion: The allegation that BG Karpinski was improperly derelict in the performance of her duties was substantiated.

6. (U) Allegation #2: BG Karpinski improperly made a material misrepresentation to an AR 15-6 investigating team.

a. (U) Standard: AR 600-100 stated in paragraph 2-1 that all leaders were responsible for setting and exemplifying the highest professional and ethical standards. GOs were responsible for establishing the fundamental tenets of the Army ethic and strengthening the Army's values through their own behaviors. The essential Army values included integrity, which meant honesty, uprightness, the avoidance of deception and steadfast adherence to standards of behavior. (EXHIBIT B-3)

b. (U) Documents:

(1) (U) The Taguba AR 15-6 Report, dated 26 February 2004, included the finding that BG Karpinski made a material misrepresentation to the investigating team concerning the frequency of her visits to subordinate commands. Finding 19, Page 43, found that individual Soldiers within the 800th MP BDE and the 320th BN stationed throughout Iraq had very little contact during their tour of duty with either LTC Phillabaum or BG Karpinski. BG Karpinski claimed she paid regular visits to the various detention facilities where her Soldiers were stationed. However, the detailed calendar provided by her aide did not support her contention. Additionally, numerous witnesses stated they rarely saw BG Karpinski. (EXHIBIT C-1, pages 43-44)

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(2) (U) In her rebuttal to the AR 15-6 investigation, dated 1 April 2004, BG Karpinski provided unsworn letters from numerous individuals corroborating that she visited her subordinate units frequently. She traveled to subordinate units four to five days per week. More distant units were visited monthly. (EXHIBIT C-2, pages12-39)

(3) (U) In an unsworn memorandum, dated 1 April 2004, subject: Rebuttal to AR 15-6 Investigation of the 800th MP BDE, LTC [redacted] stated the finding that BG Karpinski materially mislead investigators concerning her travels was completely without requisite evidentiary support. (EXHIBIT C-2, page 6)

c. (U) Testimony:

(1) On 15 February 2004, [redacted] for BG Karpinski, testified to the Taguba AR 15-6 investigation:

(a) (U) BG Karpinski traveled quite often. There were times when he traveled with her daily to the Baghdad Correctional Facility and at least twice monthly to Camp Bucca or the prisons in the Mosul area. When they visited Abu Ghraib, she would visit with the base BN CDR. (p. 1)

(b) (U) There were three or four prisons in Baghdad that he and BG Karpinski visited regularly. BCCF was the number one priority on BG Karpinski's list. After the 205th MI BDE took control of the BCCF, her visits decreased. Camp Bucca was her second priority. After she took command, she made stops at every unit at every site. (p. 2)

(c) (U) BG Karpinski always walked through the compounds. She would ask the compound staff about populations, space, food, and detainee health and welfare issues. She would ask about the command climate and if there were problems she needed to resolve. (p. 3) (EXHIBIT D-8)

(2) (U) On 15 February 2004, BG Karpinski testified to the Taguba AR 15-6 investigation. (EXHIBIT D-9)

d. (U) Discussion:

(1) (U) AR 600-100 stated that all leaders were responsible for setting and exemplifying the highest ethical standards. General officers were responsible for establishing the fundamental tenets of the Army ethic and strengthening the Army's values through their own behaviors. The essential Army values included integrity, which meant honesty, uprightness, the avoidance of deception and steadfast adherence to standards of behavior.

(2) (U) MG Taguba found that BG Karpinski was not forthright when she testified to the AR 15-6 IO that she regularly visited her units. The calendar maintained by her aide and witness statements allegedly did not support her contention.

(3) (U) In her rebuttal, BG Karpinski provided evidence that indicated she visited her units often, and that she traveled four to five days per week. Units that were significantly geographically separated from the HQs, 800th MP BDE, were visited monthly.

(4) (U) 1LT (b)(6)-2 & (b)(7)(C)-2 testified BG Karpinski traveled often. There were times when he traveled with her daily to the Baghdad Correctional Facility and at least twice monthly to Camp Bucca or the prisons in the Mosul area. There were three or four prisons in Baghdad that he and BG Karpinski visited regularly.

(5) (U) Although MG Taguba made a finding, based on evidence available to him at the time, this inquiry identified evidence that BG Karpinski often visited her units. While MG Taguba may have believed her visits were too infrequent, the analysis concluded that BG Karpinski was responsible for 17 detention facilities which were located throughout Iraq. Additionally, the conditions were austere throughout the country, and the 17 detention facilities varied in priority.

(6) (U) There was insufficient evidence to support the finding that BG Karpinski improperly made a material misrepresentation to the AR 15-6 investigating team concerning the frequency of visits to her units.

e. (U) Conclusion: The allegation that BG Karpinski improperly made a material misrepresentation to an AR 15-6 investigating team was not substantiated.

7. (U) Allegation #3: BG Karpinski improperly failed to obey a lawful order from the CDR, CFLCC, regarding the withholding of disciplinary authority for officer and senior noncommissioned officer misconduct.

a. (U) Standards:

(1) (U) Manual for Courts Martial, 2000 Edition, Article 92, Failure to obey order or regulation stated that "Any person subject to this chapter who having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order, is derelict in the performance of his duties, shall be punished as a court-martial may direct." In order to be guilty of this offense, a person had to have actual knowledge of the order. Knowledge of the order could be proved by circumstantial evidence. (EXHIBIT B-1)

(2) (U) AR 600-20 stated in paragraph 4-2 that all persons in the military service were required to strictly obey and promptly execute the legal orders of their lawful seniors. (EXHIBIT B-2)

b. (U) Documents:

(1) (U) A memorandum, undated, indicated the CDR, CFLCC, withheld authority to determine the disposition of allegations of misconduct and/or disposition of charges and specifications over all officers and NCOs in the grade of E-9 that were assigned, attached, or otherwise came under the authority of CFLCC. The distribution of the letter included the 800th MP BDE. (EXHIBIT C-7)

[IO Note: (b)(7)(D) (b)(7)(D) [redacted]

(2) (U) In a memorandum, dated 25 May 2003, subject, Memorandum of Reprimand, LTG McKiernan reprimanded MAJ (b)(6)-2 & (b)(7)(C)-2 [redacted] 800th MP BDE, for consumption of alcohol at Camp Bucca. (EXHIBIT C-15)

(3) (U) In a memorandum, dated 25 May 2003, subject, Memorandum of Reprimand, LTG McKiernan reprimanded MSG (b)(6)-2 & (b)(7)(C)-2 [redacted] 800th MP BDE, for consumption of alcohol at Camp Bucca. (EXHIBIT C-16)

[IO Note: (U) The two above Memoranda of Reprimand issued by LTG McKiernan were completed prior to BG Karpinski's tenure as CDR, 800th MP BDE.]

(4) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded LTC [redacted] 400th MP BN, for the lack of training on proper weapons clearing procedures within LTC [redacted] BN. (EXHIBIT C-18)

(5) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded CPT [redacted] 770th MP Company, for the lack of training on proper weapons clearing procedures within his unit. (EXHIBIT C-21)

(6) (U) In a memorandum, dated 20 August 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded CSM [redacted] 400th MP BN, for the lack of training on proper weapons clearing procedures within his unit. (EXHIBIT C-22)

(7) (U) In a memorandum, dated 16 September 2003, subject, Reprimand UP AR 600-37, BG Karpinski reprimanded CSM [redacted] 800th MP BDE, for his inappropriate behavior with a junior enlisted soldier. (EXHIBIT C-26)

[(U) IO Note: The reprimand was filed in CSM [redacted] official military personnel file.]

(8) (U) In a memorandum, dated 10 November 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded LTC [redacted] 320th MP BN, for LTC [redacted] lack of leadership. (EXHIBIT C-19)

(9) (U) In a memorandum, dated 10 November 2003, subject, Memorandum of Reprimand, BG Karpinski reprimanded MAJ [redacted] Headquarters and Headquarters Company, 320th MP BN, for MAJ [redacted] lack of leadership. (EXHIBIT C-20)

(10) (U) In a memorandum, dated 29 November 2003, subject, Memorandum of Reprimand, LTG McKiernan reprimanded CSM [redacted] 800th MP BDE, for violating the Army's Fraternization policy by having inappropriate relationships with at least two junior enlisted female Soldiers. (EXHIBIT C-27)

(11) (U) The Taguba AR 15-6 Report found that BG Karpinski failed to obey a general order from the CDR, CFLCC, regarding the withholding of disciplinary authority for officer and senior NCO misconduct. Finding 18c, Page 41, indicated that BG Karpinski issued GOMORs to eight senior NCOs or officers during her tour of duty as CDR, 800th MP BDE. Additionally, the AR 15-6 report documented instances where the CDR, CFLCC, took disciplinary action against members of the 800th MP BDE, prior to BG Karpinski assuming command. (EXHIBIT C-1)

(12) (U) In a memorandum, dated 1 April 2004, subject: Rebuttal to AR 15-6 Investigation of the 800th MP BDE, LTC (b)(6)-2 (b)(7)(C)-2 BG Karpinski's attorney, stated that the recommendation to relieve and reprimand BG Karpinski for failure to obey an order from LTG McKiernan regarding withholding disciplinary actions was not supported by a finding. The report contained no evidence of the order's existence, BG Karpinski's knowledge of it, or her failure to obey it. (EXHIBIT C-3)

(13) (U) In a letter, dated 19 September 2004, subject: Response of BG Karpinski to DAIG Investigation, BG Karpinski stated contrary to the assertion in the Taguba AR 15-6 investigation, she did not knowingly violate an order from LTG McKiernan regarding the withholding of disciplinary authority for officers and senior noncommissioned officer misconduct. She was not aware of such an order and the AR 15-6 investigation had no factual basis to conclude such an order existed. LTG McKiernan requested to be advised of all UCMJ actions involving officers and senior NCO's, so that in appropriate cases, he could withhold the authority at his level. The letters of concern and/or reprimands which were annexed in the AR 15-6 investigation did not rise to this level, and therefore, were inapplicable to the issue. (EXHIBIT C-13)

c. (U) Testimony:

(b)(7)(D)

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(b)(7)(D)

[redacted]

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(b)(7)(D)

[redacted]

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(b)(7)(D) [redacted]

(4) (U) On 15 February 2004, BG Karpinski testified to the Taguba AR 15-6 investigation. (EXHIBIT D-9)

d. (U) Discussion:

(1) (U) AR 600-20 stated that all persons in the military service were required to strictly obey and promptly execute the legal orders of their lawful seniors. UCMJ, Article 92, stated that any person subject to this chapter who had actual knowledge of any other lawful order issued by a member of the armed forces, which it was his duty to obey, failed to obey the order, would be punished as a court-martial may direct.

(2) (U) (b)(7)(D) [redacted] (b)(7)(D) [redacted] (b)(7)(D) [redacted] The evidence established that some personnel in the 800th MP BDE were aware of the policy, as LTG McKiernan issued reprimands during BG Hill's tenure as the CDR, 800th MP BDE.

(b)(7)(D) [redacted]

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(b)(7)(D)

(4) (U) The Taguba AR 15-6 report documented that BG Karpinski took disciplinary action on at least eight instances of officer and senior NCO misconduct. In her rebuttal to DAIG, BG Karpinski stated that she was not aware of the withholding policy; however, LTG McKiernan requested to be advised of all UCMJ actions involving officers and senior NCOs. (b)(7)(D)

(b)(7)(D)

(b)(7)(D)

(b)(7)(D) The evidence indicated that BG Karpinski's SJA misinterpreted the policy and may have passed this misinterpretation on to BG Karpinski. The preponderance of the evidence did not indicate that BG Karpinski had actual knowledge of LTG McKiernan's policy regarding the withholding of disciplinary authority for officers and senior NCOs.

e. (U) Conclusion: The allegation that BG Karpinski improperly failed to obey a lawful order from the CDR, CFLCC, regarding the withholding of disciplinary authority for officer and senior noncommissioned officer misconduct was not substantiated.

NOT RESPONSIVE

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9. (U) Recommendations:

a. (U) Record the allegation that BG Karpinski was improperly derelict in the performance of her duties as substantiated.

b. (U) Record the allegation that BG Karpinski improperly made a material misrepresentation to an AR 15-6 investigating team as not substantiated.

c. (U) Record the allegation that BG Karpinski improperly failed to obey a lawful order from the CDR, CFLCC, regarding the withholding of disciplinary authority for officer and senior noncommissioned officer misconduct as not substantiated.

d. (U) ATIG inform the VCSA of the findings.

e. (U) NOT RESPONSIVE

f. (U) Refer this report to OTJAG.

g. (U) File this report as DIG 05-80006.

(b)(6)-2 & (b)(7)(C)-2 [redacted]
COL, IG
Chief, Preliminary Inquires

[redacted] (b)(6)-2 & (b)(7)(C)-2
DAC, IG
Investigating Officer

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SAIG-IN (20-1b)(DIG 05-80006)

## LIST OF EXHIBITS

| EXHIBIT | ITEM |
|---|---|
| A | (U) Not Used |
| B | (U) Standards |
| B-1 | (U) UCMJ, Article 92 |
| B-2 | (U) AR 600-20 Extract |
| C | (U) Documents |
| C-1 | (U) Taguba AR 15-6 Report (SECRET) |
| C-2 | (U) Memorandum referring AR 15-6 to BG Karpinski, dated 15 March 2004 |
| C-3 | (U) Memorandum from [redacted] rebutting findings, dated 1 April 2004 |
| C-4 | (U) Memorandum from BG Karpinski rebutting findings, dated 1 April 2004 |
| C-5 | (U) Memorandum from MG Taguba concerning rebuttals, dated 4 April 2004 |
| C-6 | (U) DA Form 1574 |
| C-7 | (U) Memorandum from LTC McKiernan concerning withhold policy, undated |
| C-8 | (U) DAIG letter to BG Karpinski, dated 26 May 2004 |
| C-9 | (U) E-mail from [redacted] to DAIG, dated 26 June 2004 |
| C-10 | (U) DAIG letter to [redacted] dated 30 June 2004 |
| C-11 | (U) E-mail from [redacted] to DAIG, dated 27 July 2004 |
| C-12 | (U) DAIG letter to BG Karpinski, dates 10 August 2004 |
| C-13 | (U) Memorandum from BG Karpinski to DAIG, dated 19 September 2004 |
| C-14 | (U) Kern Report, dated 23 August 2004 |
| C-15 | (U) Memorandum of Reprimand by LTG McKiernan, concerning [redacted] dated 25 May 2003 |
| C-16 | (U) Memorandum of Reprimand by LTG McKiernan, concerning [redacted] dated 25 May 2003 |
| C-17 | (U) Memorandum of Reprimand by LTG McKiernan, concerning [redacted] dated 25 May 2003 |
| C-18 | (U) Memorandum of Reprimand by BG Karpinski, concerning [redacted] dated 20 August 2003 |
| C-19 | (U) Memorandum of Reprimand by BG Karpinski, concerning [redacted] dated 10 November 2003 |

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## LIST OF EXHIBITS CONTINUED

| EXHIBIT | ITEM | |
|---|---|---|
| C-20 | (U) Memorandum of Reprimand by BG Karpinski, concerning MAJ (b)(6)-2 & (b)(7)(C)-2 dated 10 November 2003 | |
| C-21 | (U) Memorandum of Reprimand by BG Karpinski, concerning CPT (b)(6)-2 & (b)(7)(C)-2 dated 20 August 2003 | |
| C-22 | (U) Memorandum of Reprimand by BG Karpinski, concerning CSM (b)(6)-2 & (b)(7)(C)-2 dated 20 August 2003 | |
| C-23 | U ~~(S)~~ FRAGO 1108, dated 19 November 2003 | |
| C-24 | (U) DAIG Detainee Operations Inspection Report, dated 21 July 2004, Extract | |
| C-25 | U ~~(S)~~ FRAGO 209, dated 28 June 2003 | |
| C-26 | (U) Memorandum of Reprimand by BG Karpinski concerning CSM (b)(6)-2 & (b)(7)(C)-2 dated 16 September 2003 | |
| C-27 | (U) Memorandum of Reprimand by LTG McKiernan, concerning CSM (b)(6)-2 & (b)(7)(C)-2 dated 29 November 2003 | |
| C-28 | (U) BG Karpinski's OER for period thru 3 February 2004 | |
| C-29 | (U) Not Used | |
| C-30 | (U) GC of 1949 Extract | |
| C-31 | (U) AR 600-100, dated 17 September 1993, Extract | |
| C-32 | (U) FM 7-0, dated October 2002, Extract | |
| C-33 | (U) Memorandum of Reprimand by BG Karpinski, concerning 1SG (b)(6)-2 & (b)(7)(C)-2 dated 20 August 2003 | |
| C-34 | U ~~(C)~~ ICRC Summary of visit to Abu Ghraib in October 2003 | |
| C-35 | U ~~(C)~~ ICRC Summary of visit to Camp Cropper in October 2003 | |
| C-36 | (U/FOUO) BG Karpinski's Response to ICRC Report, dated 24 December 2003 | |
| D | (U) Testimony | FOIA |
| D-1 | (U) LTC (b)(6)-2 & (b)(7)(C)-2 | NO |
| D-2 | (U) LTG (b)(6)-2 & (b)(7)(C)-2 | NO |
| D-3 | (U) COL (b)(6)-2 & (b)(7)(C)-2 Statement | NO |
| D-4 | U ~~(S)~~ LTG (b)(6)-2 & (b)(7)(C)-2 | NO |
| D-5 | (U) LTC (b)(6)-2 & (b)(7)(C)-2 Recall | NO |
| D-6 | (U) MG (b)(6)-2 & (b)(7)(C)-2 | NO |

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## LIST OF EXHIBITS CONTINUED

| EXHIBIT | ITEM | |
|---|---|---|
| D | (U) Testimony | FOIA |
| D-7 | (U) MG (b)(6)-2 & (b)(7)(C)-2 | NO |
| D-8 | (U) 1LT (b)(6)-2 & (b)(7)(C)-2 | NO |
| D-9 | (U) BG (b)(6)-2 & (b)(7)(C)-2 | NO |

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EXH B-1

feiture of all pay and allowances, and confinement for 3 years.

(3) *Striking or assaulting other noncommissioned or petty officer.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(4) *Willfully disobeying the lawful order of a warrant officer.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(5) *Willfully disobeying the lawful order of a noncommissioned or petty officer.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(6) *Contempt or disrespect to warrant officer.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 9 months.

(7) *Contempt or disrespect to superior noncommissioned or petty officer.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

(8) *Contempt or disrespect to other noncommissioned or petty officer.* Forfeiture of two-thirds pay per month for 3 months, and confinement for 3 months.

f. *Sample specifications.*

(1) *Striking or assaulting warrant, noncommissioned, or petty officer.*

In that____________ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about____________ 20____________, (strike) (assault)____________, a____________ officer, then known to the said____________ to be a (superior)____________ officer who was then in the execution of his/her office, by____________ him/her (in) (on) (the____________) with (*a*)____________ (his/her)____________.

(2) *Willful disobedience of warrant, noncommissioned, or petty officer.*

In that____________ (personal jurisdiction data), having received a lawful order from____________, a____________ officer, then known by the said____________ to be a____________ officer, to____________, an order which it was his/her duty to obey, did (at/on board— location), on or about____________ 20____________, willfully disobey the same.

(3) *Contempt or disrespect toward warrant, noncommissioned, or petty officer.*

In that____________ (personal jurisdiction data) (at/on board—location), on or about____________ 20____________, [did treat with contempt] [was disrespectful in (language) (deportment) toward]____________, a____________ officer, then known by the said____________ to be a (superior)____________ officer, who was then in the execution of his/her office, by (saying to him/her, "____________," or words to that effect) (spitting at his/her feet) (____________)

## 16. Article 92—Failure to obey order or regulation

a. *Text.* "Any person subject to this chapter who—

(1) violates or fails to obey any lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(3) is derelict in the performance of his duties; shall be punished as a court-martial may direct."

b. *Elements.*

(1) *Violation of or failure to obey a lawful general order or regulation.*

(a) That there was in effect a certain lawful general order or regulation;

(b) That the accused had a duty to obey it; and

(c) That the accused violated or failed to obey the order or regulation.

(2) *Failure to obey other lawful order.*

(a) That a member of the armed forces issued a certain lawful order;

(b) That the accused had knowledge of the order;

(c) That the accused had a duty to obey the order; and

(d) That the accused failed to obey the order.

(3) *Dereliction in the performance of duties.*

(a) That the accused had certain duties;

(b) That the accused knew or reasonably should have known of the duties; and

(c) That the accused was (willfully) (through neglect or culpable inefficiency) derelict in the performance of those duties.

c. *Explanation.*

(1) *Violation of or failure to obey a lawful general order or regulation.*

(a) General orders or regulations are those orders or regulations generally applicable to an armed force which are properly published by the President or the Secretary of Defense, of Transportation, or of a military department, and those orders or regulations generally applicable to the command of the officer issuing them throughout the command or a particular subdivision thereof which are issued by:

(i) an officer having general court-martial jurisdiction;

(ii) a general or flag officer in command; or

(iii) a commander superior to (i) or (ii).

(b) A general order or regulation issued by a commander with authority under Article 92(1) retains its character as a general order or regulation when another officer takes command, until it expires by its own terms or is rescinded by separate action, even if it is issued by an officer who is a general or flag officer in command and command is assumed by another officer who is not a general or flag officer.

(c) A general order or regulation is lawful unless it is contrary to the Constitution, the laws of the United States, or lawful superior orders or for some other reason is beyond the authority of the official issuing it. *See* the discussion of lawfulness in paragraph 14c(2)(a).

(d) *Knowledge.* Knowledge of a general order or regulation need not be alleged or proved, as knowledge is not an element of this offense and a lack of knowledge does not constitute a defense.

(e) *Enforceability.* Not all provisions in general orders or regulations can be enforced under Article 92(1). Regulations which only supply general guidelines or advice for conducting military functions may not be enforceable under Article 92(1).

(2) *Violation of or failure to obey other lawful order.*

(a) *Scope.* Article 92(2) includes all other lawful orders which may be issued by a member of the armed forces, violations of which are not chargeable under Article 90, 91, or 92(1). It includes the violation of written regulations which are not general regulations. *See also* subparagraph (1)(e) above as applicable.

(b) *Knowledge.* In order to be guilty of this offense, a person must have had actual knowledge of the order or regulation. Knowledge of the order may be proved by circumstantial evidence.

(c) *Duty to obey order.*

(i) *From a superior.* A member of one armed force who is senior in rank to a member of another armed force is the superior of that member with authority to issue orders which that member has a duty to obey under the same circumstances as a commissioned officer of one armed force is the superior commissioned officer of a member of another armed force for the purposes of Articles 89 and 90. *See* paragraph 13c(1).

(ii) *From one not a superior.* Failure to obey the lawful order of one not a superior is an offense under Article 92(2), provided the accused had a duty to obey the order, such as one issued by a sentinel or a member of the armed forces police. *See* paragraph 15b(2) if the order was issued by a warrant, noncommissioned, or petty officer in the execution of office.

(3) *Dereliction in the performance of duties.*

(a) *Duty.* A duty may be imposed by treaty, statute, regulation, lawful order, standard operating procedure, or custom of the service.

(b) *Knowledge.* Actual knowledge of duties may be proved by circumstantial evidence. Actual knowledge need not be shown if the individual reasonably should have known of the duties. This may be demonstrated by regulations, training or operating manuals, customs of the service, academic literature or testimony, testimony of persons who have held similar or superior positions, or similar evidence.

(c) *Derelict.* A person is derelict in the performance of duties when that person willfully or negligently fails to perform that person's duties or when that person performs them in a culpably inefficient manner. "Willfully" means intentionally. It refers to the doing of an act knowingly and purposely, specifically intending the natural and probable consequences of the act. "Negligently" means an act or omission of a person who is under a duty to use due care which exhibits a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. "Culpable inefficiency" is inefficiency for which there is no reasonable or just excuse.

(d) *Ineptitude.* A person is not derelict in the performance of duties if the failure to perform those duties is caused by ineptitude rather than by willfulness, negligence, or culpable inefficiency, and may not be charged under this article, or otherwise punished. For example, a recruit who has tried earnestly during rifle training and throughout record firing is not derelict in the performance of duties if the recruit fails to qualify with the weapon.

d. *Lesser included offense.* Article 80—attempts

e. *Maximum punishment.*

(1) *Violation or failure to obey lawful general order or regulation.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

(2) *Violation of failure to obey other lawful order.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

[Note: For (1) and (2), above, the punishment set forth does not apply in the following cases: if in the absence of the order or regulation which was violated or not obeyed the accused would on the same facts be subject to conviction for another specific offense for which a lesser punishment is prescribed; or if the violation or failure to obey is a breach of restraint imposed as a result of an order. In these instances, the maximum punishment is that specifically prescribed elsewhere for that particular offense.]

(3) *Dereliction in the performance of duties.*

(A) *Through neglect or culpable inefficiency.* Forfeiture of two-thirds pay per month for 3 months and confinement for 3 months.

(B) *Willful.* Bad-conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months.

f. *Sample specifications.*

(1) *Violation or failure to obey lawful general order or regulation.*

In that ____________ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____________ 20 ____________, (violate) (fail to obey) a lawful general (order) (regulation), to wit: (paragraph ____________, (Army) (Air Force) Regulation ____________, dated ____________ 20 ____________) (Article ____________, U.S. Navy Regulations, dated ________ 20 ____________) (General Order No. ____________, U.S. Navy, dated ________ 20 ____________) (____________), by (wrongfully) ____________.

(2) *Violation or failure to obey other lawful written order.*

In that ____________ (personal jurisdiction data), having knowledge of a lawful order issued by ____________, to wit: (paragraph ____________, (____________ the Combat Group Regulation No. ____________) (USS ____________, Regulation ____________), dated ____________) (____________), an order which it was his/her duty to obey, did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____________ 20 ____________, fail to obey the same by (wrongfully) ____________.

(3) *Failure to obey other lawful order.*

In that ____________, (personal jurisdiction data) having knowledge of a lawful order issued by ____________ (to submit to certain medical treatment) (to ____________) (not to ____________) (____________), an order which it was his/her duty to obey, did (at/on board—location) (subject-matter jurisdiction data, if required), on or about ____________ 20 ____________, fail to obey the same (by (wrongfully) ____________.)

(4) *Dereliction in the performance of duties.*

In that ____________, (personal jurisdiction data), who (knew) (should have known) of his/her duties (at/on board—location) (subject-matter jurisdiction data, if required), (on or about ____________ 20 ____________) (from about ____________ 20 ____________ to about ____________ 20 ____________), was derelict in the performance of those duties in that he/she (negligently) (willfully) (by culpable inefficiency) failed ____________, as it was his/her duty to do.

## 17. Article 93—Cruelty and maltreatment

a. *Text.*

"Any person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct."

b. *Elements.*

(1) That a certain person was subject to the orders of the accused; and

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**Headquarters**
**Department of the Army**
**Washington, DC**
**13 May 2002**

***Army Regulation 600–20**

**Effective 13 June 2002**

## Personnel-General

# Army Command Policy

**By Order of the Secretary of the Army:**

ERIC K. SHINSEKI
*General, United States Army*
*Chief of Staff*

Official:

Joel B Hudson

JOEL B. HUDSON
*Administrative Assistant to the Secretary of the Army*

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**History.** This printing publishes a revision of AR 600-20. Revised portions are listed in the sumary of change.

**Summary.** This regulation prescribes policy on basic responsibilities of command, military discipline and conduct, and enlisted aspects of command. It defines the responsibilities of noncommissioned officers and provides guidance on and responsibilities for Family Care Plans, accommodation of religious practices, relationship between soldiers of different ranks, and the Army Equal Opportunity (EO) Program. It implements Department of Defense DOD Directives, 1300.17, 1325.6, 1342.19, 1344.10, 1350.2, 1354.1, 1400.33, and DOD Instruction 5120.4.

**Applicability.** This regulation applies to the Active Army (AA), the Army National Guard (ARNG)/Army National Guard of the United States (ARNGUS), as modified by National Guard Regulations 600-21,600-100, 600-101, and 600-200, and the U.S. Army Reserve (USAR). Unless specifically addressed by conflicting contractual or statutory and regulatory standards or policies, this regulation also applies to Department of the Army Civilian employees. This regulation is applicable during full mobilization. Portions of this regulation which prescribe specific conduct are punitive and violations of these provisions may subject offenders to nonjudicial or judicial action under the Uniform Code of Military Justice (UCMJ). The equal opportunity terms found in the glossary are applicable only to uniformed personnel. AR 690-600 contains similar terms which are applicable to DA civilians.

**Proponent and exception authority.** The proponent of this regulation is the Deputy Chief of Staff, G–1 (DCS, G–1). The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The proponent may delegate this authority in writing to an individual within the proponent agency who holds the grade of colonel or above.

**Army management control process.** This regulation does not contain management control provisions.

**Supplementation.** Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from HQDA (DAPE-HR-L), WASH DC 20310-0300. Supplementation of chapters 6 and 7 are permitted at major Army command level. A draft copy of each supplement must be provided to HQDA (DAPE-HR-L), WASH DC 20310-0300, for approval before publication.

**Suggested Improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA (DAPE-HR-L), WASH DC 20310-0300.

**Distribution.** Distribution of this publication is made in accordance with Initial Distribution Number (IDN) 092389 intended for command levels A, B, C, D, and E for the Active Army, the Army National Guard, and the U.S. Army Reserve.

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*This regulation supersedes AR 600–20 dated 15 July 1999.

# Chapter 1
# Introduction

### 1–1. Purpose
This regulation prescribes the policies and responsibilities of command, which include military discipline and conduct, and the Army Equal Opportunity Program.

### 1–2. References
Required and related publications and prescribed and referenced forms are listed in appendix A.

### 1–3. Explanation of abbreviations and terms
Abbreviations and special terms used in this regulation are listed in the glossary.

### 1–4. Responsibilities
The detailed responsibilities are listed and described in separate chapters under specific programs and command functions. This paragraph outlines those general responsibilities.

*a.* The Deputy Chief of Staff , G–1 (DCS, G-1) will formulate, manage, and evaluate command policies, plans, and programs that relate to:

(1) Chain of command (para 2-1); designation of junior in the same grade to command (para 2-7); and assumption of command by the senior when the commander dies, is disabled, resigns, retires, or is absent (para 2-8).

(2) Extremist organizations and activities (para 4-12), relationships between soldiers of different rank (para 4-14), other prohibited relationships (4-15), and homosexual conduct policy (para 4-19).

(3) Political activities (para 5-3), Family Care Plans (para 5-5), and accommodation of religious practices (para 5-6).

(4) The Army Equal Opportunity (EO) Program (paras 6-2 and 6-18)

*b.* The officials listed below have responsibilities for specific groups of personnel concerning awareness of the Army's accommodation of religious practices policies. Every enlisted soldier (including reenlistment), cadet, warrant officer, and commissioned officer applicant needs to be informed of the Army's accommodation of religious practices policies under this regulation (para 5-6).

(1) The Judge Advocate General. All judge advocate officer accessions.

(2) The Chief of Chaplains. All chaplain officer accessions. This principal HQDA official will also formulate and disseminate education and training programs regarding religious traditions and practices within the U.S. Army.

(3) The Superintendent, U. S. Military Academy. All U.S. Military Academy cadet applicants.

(4) The CG, U.S. Army Training and Doctrine Command (TRADOC). All Reserve Officer Training Corps cadets and all officer and warrant officer candidates.

(5) The CG, U.S. Army Recruiting Command (USAREC). All enlisted and AMEDD officer accessions.

*c.* Commanders at all levels will implement and enforce the chain of command and Army command policies.

### 1–5. Command
*a. Privilege to command.* Command is exercised by virtue of office and the special assignment of members of the United States Armed Forces holding military grade who are eligible to exercise command. A commander is therefore a commissioned or warrant officer who, by virtue of grade and assignment, exercises primary command authority over a military organization or prescribed territorial area that under pertinent official directives is recognized as " command." The privilege to command is not limited solely by branch of Service except as indicated in chapter 2. A civilian, other than the President as Commander-in Chief (or National Command Authority), may not exercise command. However, a civilian may be designated to exercise general supervision over an Army installation or activity under the command of a military superior.

*b. Elements of command.* The key elements of command are authority and responsibility. Formal authority for command is derived from the policies, procedures, and precedents presented in chapters 1 through 3.

*c. Characteristics of command leadership.* The commander is responsible for establishing leadership climate of the unit and developing disciplined and cohesive units . This sets the parameters within which command will be exercised and, therefore, sets the tone for social and duty relationships within the command. Commanders are also responsible for the professional development of their soldiers. To this end, they encourage self-study, professional development, and continued growth of their subordinates' military careers.

(1) Commanders and other leaders committed to the professional Army ethic promote a positive environment. If leaders show loyalty to their soldiers, the Army, and the Nation, they earn the loyalty of their soldiers. If leaders consider their soldiers' needs and care for their well-being, and if they demonstrate genuine concern, these leaders build a positive command climate.

(2) Duty is obedient and disciplined performance. Soldiers with a sense of duty accomplish tasks given them, seize opportunities for self-improvement, and accept responsibility from their superiors. Soldiers, leader and led alike, work together to accomplish the mission rather than feed their self-interest.

(3) Integrity is a way of life. Demonstrated integrity is the basis for dependable, consistent information, decision-making, and delegation of authority.

(4) Professionally competent leaders will develop respect for their authority by-

*(a)* Striving to develop, maintain, and use the full range of human potential in their organization. This potential is a critical factor in ensuring that the organization is capable of accomplishing its mission.

*(b)* Giving troops constructive information on the need for and purpose of military discipline. Articles in the UCMJ which require explanation will be presented in such a way to ensure that soldiers are fully aware of the controls and obligations imposed on them by virtue of their military service. (See Art 137, UCMJ.)

*(c)* Properly training their soldiers and ensuring that both soldiers and equipment are in the proper state of readiness at all times. Commanders should assess the command climate periodically to analyze the human dimension of combat readiness. Soldiers must be committed to accomplishing the mission through the unit cohesion developed as a result of a healthy leadership climate established by the command. Leaders at all levels promote the individual readiness of their soldiers by developing competence and confidence in their subordinates. In addition to being mentally, physically, tactically, and technically competent, soldiers must have confidence in themselves, their equipment, their peers, and their leaders. A leadership climate in which all soldiers are treated with fairness, justice, and equity will be crucial to development of this confidence within soldiers. Commanders are responsible for developing disciplined and cohesive units sustained at the highest readiness level possible.

*d. Assignment and command.* Soldiers are assigned to stations or units where their services are required. The commanding officer then assigns appropriate duties. Without orders from proper authority, a soldier may only assume command when eligible according to chapter 2.

### 1–6. Military grade and rank

*a.* Military rank among officers of the same grade or of equivalent grade is determined by comparing dates of rank. An officer whose date of rank is earlier than the date of rank of another officer of the same or equivalent grade is senior to that officer. Grade and precedence of rank confers eligibility to exercise command or authority in the United States military within limits prescribed by law. (10 USC 741)

*b.* Grade is generally held by virtue of office or position in the Army. For example, second lieutenant (2LT), captain (CPT), sergeant first class (SFC), chief warrant officer two (CW2) are grades. Table 1-1 shows the grades in the Army in order of their precedence. It indicates the grouping of grades into classes, pay grades, titles of address, and abbreviations.

*c.* The pay grade is also an abbreviated numerical device with useful applications in pay management, personnel accounting, automated data organization, and other administrative fields. However, the numerical pay grade will not be used as a form of address or title in place of the proper title of address of grade. A soldier holding the numerical pay grade of E-5 will be addressed as Sergeant, not as " E-5." (See table 1-1.)

*d.* All chaplains are addressed as " Chaplain," regardless of military grade or professional title. When a chaplain is addressed in writing, grade is indicated in parentheses; for example, Chaplain (Major) John F. Doe.

*e.* Conferring honorary titles of military grade upon civilians is prohibited. However, honorary titles already conferred will not be withdrawn.

**Table 1–1**
**Grades of rank, U.S. Army**

| **General Officers** | |
|---|---|
| **Grade of rank:** General of the Army<br>**Pay grade:** Special<br>**Title of address:** General<br>**Abbreviation:** GA (See footnote 1) | **Grade of rank:** Major General<br>**Pay grade:** O-8<br>**Title of address:** General<br>**Abbreviation:** MG |
| **Grade of rank:** General<br>**Pay grade:** O-10<br>**Title of address:** General<br>**Abbreviation:** GEN | **Grade of rank:** Brigadier General<br>**Pay grade:** 0-7<br>**Title of address:** General<br>**Abbreviation:** BG |
| **Grade of rank:** Lieutenant General<br>**Pay grade:** O-9<br>**Title of address:** General<br>**Abbreviation:** LTG | |
| **Field Grade Officers** | |

# Chapter 4
# Military Discipline and Conduct

## 4-1. Military discipline

*a.* Military discipline is founded upon self-discipline, respect for properly constituted authority, and the embracing of the professional Army ethic with its supporting individual values. Military discipline will be developed by individual and group training to create a mental attitude resulting in proper conduct and prompt obedience to lawful military authority.

*b.* While military discipline is the result of effective training, it is affected by every feature of military life. It is manifested in individuals and units by cohesion, bonding, and a spirit of teamwork; by smartness of appearance and action; by cleanliness and maintenance of dress, equipment, and quarters; by deference to seniors and mutual respect between senior and subordinate personnel; by the prompt and willing execution of both the letter and the spirit of the legal orders of their lawful commanders; and by fairness, justice, and equity for all soldiers, regardless of race, religion, color, gender, and national origin.

*c.* Commanders and other leaders will maintain discipline according to the policies of this chapter, applicable laws and regulations, and the orders of seniors.

## 4-2. Obedience to orders

All persons in the military service are required to strictly obey and promptly execute the legal orders of their lawful seniors.

## 4-3. Military courtesy

*a.* Courtesy among members of the Armed Forces is vital to maintain military discipline. Respect to seniors will be extended at all times. (See AR 600-25 , chap 4.)

*b.* The actions of military personnel will reflect respect to both the National Anthem and the National Colors. The courtesies listed in AR 600-25, appendix A, should be rendered the National Colors and National Anthem at public events whether the soldier is off or on duty, whether he or she is in or out of uniform. Intentional disrespect to the National Colors or National Anthem is conduct prejudicial to good order and discipline and discredits the military service.

## 4-4. Soldier conduct

*a.* Ensuring the proper conduct of soldiers is a function of command. Commanders and leaders in the Army, whether on or off duty or in a leave status, will-

(1) Ensure all military personnel present a neat, soldierly appearance.

(2) Take action consistent with Army regulation in any case where a soldier's conduct violates good order and military discipline.

C-8

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

May 26, 2004

Investigations Division

Brigadier General Janis L. Karpinski
(b)(6)-2 & (b)(7)(C)-2

Dear General Karpinski:

In accordance with Army Regulation (AR) 20-1, Inspector General Activities and Procedures, dated March 29, 2002, the Department of the Army Inspector General Agency (DAIG) has been informed of allegations against you. One of the missions of DAIG is to inquire into and investigate allegations of impropriety or misconduct by general officers. The allegations concerning you were investigated in an AR 15-6, Procedures for Investigating Officers and Boards of Officers, dated September 30, 1996, investigation directed on January 31, 2004, by Lieutenant General (LTG) David McKiernan, Commander, Coalition Forces Land Component Command, 3d U.S. Army. The AR 15-6 investigation report was approved by LTG McKiernan on April 5, 2004.

Upon review of the AR 15-6 investigation report's base document, DAIG identified allegations that are appropriate for further DAIG review to determine whether the allegations will be recorded in the DAIG database as substantiated or unsubstantiated. The allegations are that you: were derelict in the performance of your duties; and that you failed to obey an order from LTG McKiernan regarding the withholding of disciplinary authority for officer and senior noncommissioned officer misconduct. You were previously provided a copy of the AR 15-6 investigation report, and were given an opportunity to respond. DAIG obtained and reviewed a copy of your April 1, 2004, rebuttal with attachments, responding to the AR 15-6 investigation.

NOT RESPONSIVE

In accordance with normal procedures, this letter is your notification of DAIG's intent to determine whether to record the allegations against you in the DAIG database as substantiated or unsubstantiated. The DAIG database may be reviewed by the Department of Defense and Congress prior to acting on any future personnel action pertaining to you. Additionally, if substantiated, the matter will be referred to the Vice Chief of Staff, Army, for action he deems appropriate. You have the opportunity to comment and provide any information you desire DAIG to consider before a determination is made. Please provide any additional response that you would like to

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make to this office not later than June 27, 2004. If any of these matters are classified, please notify Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2 so that DAIG may make appropriate arrangements for the delivery and handling of the classified material.

Respectfully,

Stanley E. Green
Major General, US Army
Deputy The Inspector General

Enclosure

C-9

(b)(6)-2 & (b)(7)(C)-2

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**From:** (b)(6)-2 & (b)(7)(C)-2
**Sent:** Saturday, June 26, 2004 9:20 AM
**To:** (b)(6)-2 & (b)(7)(C)-2
**Cc:** (b)(6)-2 & (b)(7)(C)-2
**Subject:** Request for Delay In Substantiation Decision -- BG Janis L. Karpinski

1. BG Janis Karpinski, by and through counsel, request that she be given a delay in any decision in her case until all investigations, military and Congressional, into the activities at Abu Ghraib Prison, Iraq, are complete, received and reviewed by BG Karpinski's legal defense team and by your office. The defense team desires to submit one rebuttal addressing all allegations.

2. While the genesis for the AR 15-6 investigation conducted by MG Antonio Taguba was the abuse allegations, the adverse findings concerning BG Karpinski's dereliction of duty are intertwined with those same allegations. The numerous investigations into the operations of the prison, the command relationship between the 205th Military Intelligence Brigade and the 800th Military Police Brigade, and the involvement of Other Governmental Agencies in these interrogations and events will contain relevant, and the defense team believes, exculpatory or at least mitigating information. To make a career destroying decision such as the one contemplated in the face of incomplete information is not in keeping with our American values and beliefs of fundamental fairness and due process. Values we hold dear and are trying to instill in Iraq and elsewhere in the world.

3. The allegation concerning the failure to obey LTG McKiernan's order regarding withholding of disciplinary authority is potentially a component of and potentially relates to the dereliction of duty allegation. A decision on that allegation apart from the dereliction allegation is improper and premature.

NOT RESPONSIVE

5. Finally, given the widely dispersed nature of BG Karpinski's assigned military attorneys, LTC (b)(6)-2 & (b)(7)(C)-2 being forward deployed to Camp Victory, Iraq, and the undersigned being a Reserve Judge Advocate in New Jersey, additional time is required to overcome the monumental logistical difficulties inherent in communicating in the face of time differences and basic communication capabilities.

6. POC for this request is MAJ (b)(6)-2 & (b)(7)(C)-2

(b)(6)-2 & (b)(7)(C)-2
MAJ, (b)(6)-2 & (b)(7)(C)-2
(b)(6)-2 & (b)(7)(C)-2

C-10

DEPARTMENT OF DEFENSE

**DEPARTMENT OF THE ARMY**
**OFFICE OF THE INSPECTOR GENERAL**
**1700 ARMY PENTAGON**
**WASHINGTON DC 20310-1700**

30 JUN 2004

Investigations Division

NOT RESPONSIVE

[redacted]

**FOR OFFICIAL USE ONLY**

NOT RESPONSIVE

[redacted]

C-11

DA IG

(b)(7)(C)

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**From:** (b)(6)-2 & (b)(7)(C)-2

**Sent:** Tuesday, July 27, 2004 10:47 AM

**To:** (b)(6)-1 & (b)(7)(C)-1

**Cc:** (b)(6)-2 & (b)(7)(C)-2
(b)(7)(C) (b)(6)-5 & (b)(7)(C)-5

**Subject:** BG Janis Karpinski

1. BG Janis Karpinski, by and through counsel, request that she be given a delay in any decision in her case until Tuesday, September 7, 2004 (this is the first workday after the Labor Day weekend).

2. While the genesis for the AR 15-6 investigation conducted by MG Antonio Taguba was the abuse allegations, the adverse findings concerning BG Karpinski's dereliction of duty are intertwined with those same allegations. The numerous investigations into the operations of the prison, the command relationship between the 205th Military Intelligence Brigade and the 800th Military Police Brigade, and the involvement of Other Governmental Agencies in these interrogations and events will contain relevant, and the defense team believes, exculpatory or at least mitigating information. Indeed, the Investigation by MG Fay deals directly with this issue and, based on his comments during his interview of BG Karpinski, I have reason to belief that his report, which will be released imminently, will provide favorable information on the dereliction of duty investigation. In addition, we have forwarded numerous Freedom of Information Act/Privacy Act request and I have been told that I will have information from such requests in the next couple of weeks. Indeed, we have only recently received the DAIG report on prisoner abuse and I have been told that I will receive the CID report and the NOT RESPONSIVE incident within the next couple of weeks. To make a career destroying decision such as the one contemplated in the face of incomplete information is not in keeping with our American values and beliefs of fundamental fairness and due process. Moreover, there should be no rush to judgment in this matter.

3. POC for this request is (b)(6)-2 & (b)(7)(C)-2

(b)(6)-2 & (b)(7)(C)-2
MAJ, JA, USAR
(b)(6)-2 & (b)(7)(C)-2

C-12

4155

DA IG

**DEPARTMENT OF THE ARMY**
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

August 10, 2004

NOT RESPONSIVE

4156

DA IG

C-13

DA IG

4157

(b)(6)-1 & (b)(7)(C)-1

IN ________ 26 Sep

**DEPARTMENT OF THE ARMY**
**HEADQUARTERS, 800TH MILITARY POLICE BRIGADE (I/R)**
**101 OAK STREET**
**UNIONDALE, NEW YORK 11553**

24 Sep
I got a copy via FEDEX this morning.

(b)(6)-1 & (b)(7)(C)-1

AFRC-CNY-AI-CG 19 September 2004

MEMORANDUM FOR MG Stanley Green, Office of the Army Inspector General, 1700 Army Pentagon, Washington, DC 20310-1700

SUBJECT: Response of BG Janis Karpinski to DAIG Investigation(s)

1. Please consider this letter as my response to your office's investigation as set forth in your letters dated 26 May and 30 June 2004. I respectfully request that all the allegations be found "unsubstantiated."

2. In evaluating the Taguba AR 15-6 Investigation ("Taguba"), please keep in mind that the findings of the investigation are incomplete, biased, prejudiced, inaccurate, incorrect and unjust. Indeed, many of the findings do not appear to be based on first-hand information, but instead, appear to be based on an inaccurate and incomplete investigation. For example, despite the evidence that supports the fact that I routinely visited Abu Ghraib, Taguba, based solely on the testimony of COL (b)(6)-2 & (b)(7)(C)-2 concludes that I only rarely visited Abu Ghraib, notwithstanding the fact that COL (b)(6)-2 & (b)(7)(C)-2 was not physically located at Abu Ghraib and was only rarely at Abu Ghraib. Moreover, Taguba fails to give appropriate credit to the statements of LTC (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 1LT (b)(6)-2 & (b)(7)(C)-2 CPT (b)(6)-2 & (b)(7)(C)-2 CSM (b)(6)-2 & (b)(7)(C)-2 and other MP Leaders who served in the 800th MP Brigade with me. Their statements are replete with praise and admiration of my clear guidance, firm, fair and common sense enforcement of standards, my caring for the soldiers of the Brigade and my constant visits to see the soldiers where they lived and worked, often at great personal risk. They know that I tried my best to obtain support and replacements and that higher headquarters did not respond to these requests. Indeed, I managed seventeen (17) detention facilities with only limited support from CJTF-7, CFLCC and CPA. Throughout my tenure, I successfully met every challenge, and I was recognized for such. Indeed, I was responsible for the detention of Saddam Hussein and all other high value detainees and assigned to meet, escort and brief VIP's, high ranking military officials and government officials.

3. Throughout my tenure, the Brigade welcomed anyone who attempted to assist in its operations even if the assistance resulted in negative findings or required additional work. The Brigade staff was so overwhelmed with daily operations that, at times, it was difficult to see the source of some of the problems. This assistance provided an outside look. The ICRC reports submitted from July 2003 forward, identifies remarkable improvements in the detention facilities operated by the 800th MP Brigade.

4. Contrary to the assertion in Taguba, I did not knowingly violate an order from LTG McKiernan regarding the withholding of disciplinary authority for officer and senior noncommissioned officer misconduct. Indeed, not only was I unaware of such an order, Taguba has no factual basis from which to conclude that such an order existed. While General McKiernan requested to be advised of all UCMJ actions involving officers and senior NCO's, so that in appropriate cases, he could withhold the authority for his level, the letters of concern and/or

reprimands which are annexed in Taguba, did not rise to this level. Thus, they are inapplicable to this issue.

6. The allegation that I was derelict in my duties is equally without merit. As the commander of the 800th MP Brigade, I am the first and only female general officer to lead soldiers in combat. The 800th MP Brigade deployed to Kuwait in support of Operation Iraqi Freedom. The Brigade's mission in support of Operation Iraqi Freedom was to detain Enemy Prisoners of War ("EPW") until cessation of hostilities and repatriation. To that end, and prior to my assumption of command, the Brigade was trained on this doctrinal mission which coincides with its wartime mission essential task list (METL). While Taguba highlights the lack of a Brigade level METL for operating a correctional facility and training to that METL, correctional operations is a non-doctrinal mission for the 800th MP Brigade. Consistent with the Brigade's EPW mission, between March and June 2003, the Brigade conducted EPW operations in Umm Qasr, Iraq (Camp Bucca), under the command of BG Paul Hill.

7. In late June/early July 2003, the 800th MP Brigade arrived in Baghdad and embarked on its new mission of reconstructing the Iraqi correctional system. At this time, the Brigade consisted of ~~eight (8) Battalions and twenty-one (21) Companies. The 800th MP Brigade had an area of operation~~ larger than that of any other Brigade or Division in Iraq. The two other MP Brigades in theater had a smaller mission and were structured with a larger staff then the 800th MP Brigade.

8. Despite its smaller size and facing more losses due to soldier re-deployment, and notwithstanding the abuse anomalies at Abu Ghraib, the Brigade performed this mission in an outstanding manner. The Brigade suffered greatly from personnel shortages throughout its command. Personnel and equipment authorizations did not meet the specified mission requirements. Taguba confirmed that shortage. In addition, due to prior deployments and family and medical emergencies, soldiers rotated back to the United States without a system to replace them. As such, the Brigade suffered critical personnel losses. For example, the 800th MP [redacted] [redacted] left the unit in September 03, the Executive Officer left the unit in June 03 and the [redacted] was relieved of his duties in October 03.

9. Despite these extreme shortages, the Brigade not only completed their daily operations, but did so in a hostile combat environment. While running detention operations, the Brigade was constantly under mortar, small arms fire, and RPG attacks. Of these attacks, two (2) soldiers were killed, six (6) detainees were killed and 71 detainees were wounded.

10. Prior to the initial attack and after the attacks began, I repeatedly requested support from CJTF-7 to provide force protection assets on the external perimeter of the detention facilities. Despite facing numerous challenges with the conversion of the Brigade's mission from EPW to correctional operations, such as training for detention operations, writing new SOP's, housing, feeding and securing thousands of detainees, the Brigade was told to use internal assets (MP's). Taguba agreed with such, stating that "the 800th MP (I/R) BRIGADE and its subordinate units are not well equipped to defend its HR facilities (e.g., few crew-served weapons) or escort prisoners in a high threat environment (e.g., no M1114 HMMWVs, and few M1025/6 HMMWVs and organic cargo vehicles."

11. Not understanding the challenges the Brigade faced, I have been criticized for allegedly assigning a single, unreinforced battalion to guard 7,000 prisoners at BCCF while detailing a full battalion to the high value detainee facility guarding about 100. While I did assign a battalion to guard 7,000 prisoners at BCCF, the battalion was reinforced by three additional companies, making it almost two battalions in terms of the number of soldiers assigned. As for the battalion guarding the high value detainees, a significantly higher responsibility than BCCF, it was also responsible for the Camp Cropper Corps Holding Area, which had an average population of approximately 1,000 detainees. In addition, this battalion was also responsible for providing its own force protection, transportation, medical and logistics. While resources to support my Brigade were austere, I allocated resources appropriately in a tremendously difficult environment ensuring all units assigned to the Brigade were mission successful despite the fact CFLCC and CJTF-7 shirked their responsibility to provide support to my Brigade including, but not limited to, logistics, personnel replacement and force protection.

12. The findings regarding the reporting and accounting of detainees is misleading. The 800th MP Brigade developed approximately sixteen (16) different types of spreadsheets to report/record and account for all categories of detainees. On a daily basis, this information was distributed to ~~CJTF-7, the Pentagon, DOD and various other agencies. This information was also posted and~~ maintained on a website. Moreover, it was CPA's responsibility to develop a national criminal detainee database as set forth in their July 03 information paper. Notwithstanding the failures of CPA, the Brigade, with little support, developed a database of over 40,000 detainees spread over 17 detention facilities throughout the entire country of Iraq. While there were certainly some errors in the database, the Brigade did not fail to maintain accountability of detainees and prisoners. In fact, while most requests could be answered immediately, no request for the status of any one prisoner/detainee went unresolved for more than 72 hours

13. Moreover, the Brigade never sanctioned the moving of detainees to hide them from ICRC. Only on one occasion did the Brigade know of this happening and this was a result of a direct fragmentary order by LTG Sanchez to do so. The Brigade immediately objected to the implementation of the order and contacted the CJTF-7 Staff Judge Advocate to question it. The Brigade was told to implement the order.

14. Taguba's references to riots, escapes, and shootings documented as having occurred at detention facilities in Iraq as a basis for a finding of my wrongdoing is also inaccurate. While there were some escapes, the MP's guarding the facilities not only had to operate detention operations without proper equipment, they also had to do so in a hostile environment. Despite not having sufficient forces to guard the number of prisoners/detainees, despite the fact that these facilities were regularly under attack by insurgent forces, and despite the fact the military policemen did not have appropriate equipment for these conditions, the total number of escapees numbered less than one percent of the prison population. In regard to the issue of riots, a careful review of the same will show that the only riot that occurred during my tenure was at Abu Ghraib, and despite the extremely austere and harsh living conditions that the soldiers and detainees had to endure, the riot occurred only after command of Abu Ghraib was transferred to COL [redacted] and the military intelligence community.

b(6)-2
b(7)(c)-2

15. Likewise, the findings of a lack of Geneva Convention training, SOP's on dealing with detainees, and basic soldier proficiency are without merit. Testimony from LTC (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 LTC (b)(6)-2 & (b)(7)(C)-2 MAJ (b)(6)-2 & (b)(7)(C)-2 2LT (b)(6)-2 & (b)(7)(C)-2 and others note the training soldiers received both at the mobilization site and during the course of the deployment. The actions of the soldiers facing court-martial charges for abusing detainees are so far out of the norm, that to conclude that additional training in the foregoing would have prevented said misconduct is ludicrous. It was 800th MP Brigade soldiers who reported the Abu Ghraib and Camp Bucca abuses to the appropriate authorities. This, in and of itself, shows that my soldiers were properly trained and that, as a unit, they respected and observed the fundamental human rights of the detainees.

16. In regard to the allegations that I failed to relieve personnel in critical positions, and the contention these same leaders were somehow responsible for the abuse of detainees, are factually incorrect. Prior to the discovery of the prisoner abuse scandal at Abu Ghraib, the only person in a critical position whose actions warranted being relieved was the (b)(6)-2 & (b)(7)(C)-2 and he was relieved. Prior to January 2004, there was no evidence to support relieving CPT (b)(6)-2 & (b)(7)(C)-2 As ~~for LTC~~ [redacted] while he certainly had leadership deficiencies, the correct procedures for counseling and mentoring were in place and were being exercised. The contention leadership failures ~~of CPT (b)(6)-2 & (b)(7)(C)-2 and LTC~~ [redacted] ~~led to the abuse of detainees is unfounded and unwarranted. The leadership failures~~ that resulted in the abuse of detainees at Abu Ghraib goes directly to LTC (b)(6)-2 & (b)(7)(C)-2 and COL [redacted], and to LTG Sanchez and his working group on interrogation and ~~detention operations~~ from which I was intentionally and actively excluded. The 800th MP Brigade operated seventeen (17) detention facilities, and the only instance of prisoner abuse under my watch took place after command of Abu Ghraib and/or Tiers 1A and 1B were transferred to COL Pappas and intelligence community. The abuse of detainees is directly linked to LTG Sanchez's misguided order to adopt the interrogation techniques which were only authorized for use at GITMO and Afghanistan into the Iraqi theater, LTG Sanchez's decision to adopt the recommendations of the intelligence community to use MPs to enhance interrogations, COL [redacted] decision to, directly or indirectly, authorize additional abusive interrogation techniques at Abu Ghraib and the use of MPs in said additional abusive interrogation techniques, and the intelligence communities' failure to train (as promised by MG Miller) said MP's in executing said new duties and responsibilities. Indeed, of my seventeen (17) detention facilities, Abu Ghraib was the one in which MP's were being used to enhance interrogations and it was the only one that had allegations of prisoner abuse.

b(6)-2
b(7)(C)-2

b(6)-2
b(7)(C)-2

17. Needless to say, I feel that I have been unfairly singled out because I am a reserve female general officer. While the seven (7) soldiers charged with criminal abuse at Abu Ghraib certainly belonged to me, and while I take command responsibility for their actions, I am the only General Officer being held responsibly for any of the abuses that occurred. Indeed, prior to assuming command, ten (10) soldiers from the Brigade were found culpable for prisoner abuse at Bucca relating to the Jessica Lynch incident. Nonetheless, BG Hill, my predecessor, was never relieved or admonished for said misconduct. Likewise, when a LTC (b)(6)-2 & (b)(7)(C)-2 abused a detainee, and after six (6) other detainees who were forced to jump from a bridge, MG Odierno, their immediate superior, was never relieved or admonished for said misconduct. Likewise, COL [redacted] and LTC (b)(6)-2 & (b)(7)(C)-2 have been found to be culpable of committing abuses at Abu Ghraib. Notwithstanding the same, their direct superiors, MG Fast and LTG Sanchez, have not been relieved or admonished for said misconduct. While I had no command responsibility for, or knowledge of, the abusive interrogation

b(6)-2
b(7)(C)-2

techniques that were improperly brought into Abu Ghraib from GITMO and Afghanistan, LTG Sanchez was directly involved in such and directly supervised the officers that, through their leadership failures and misconduct, resulted in further abuses at Abu Ghraib and which corrupted the soldiers in my command. Indeed, there are sixty-six (66) total substantiated instances of abuse of which eight (8) occurred in GITMO and three (3) in Afghanistan. Of the sixty-six (66) incidents, five (5) detainees died from interrogation techniques. Notwithstanding the foregoing, notwithstanding the fact that none of soldiers in my Brigade have been accused of causing the death of a detainee, and notwithstanding the fact that the soldiers in the 800th MP Brigade committed only a small fraction of the sixty-six (66) substantiated cases of abuse, I am the only General Officer being admonished and/or suspended from command.

NOT RESPONSIVE

20. Accordingly, for the foregoing reasons, I request that the allegations under investigation be unsubstantiated. In completing this matter, I specifically request that you review the report completed by (b)(6)-2 & (b)(7)(C)-2, the investigation by MG Fay, the report prepared by the Schleissinger Commission, the DAIG investigation into the abuse of prisoner/detainees, the MG Ryder report, the MG Miller report, the statements contained in the MG Taguba 15-6 (not just the conclusions) and my responses to the MG Taguba 15-6. I finally request the you talk to the trial counsel prosecuting the Abu Ghraib abuse cases, and review of all sworn and unsworn statements in those cases including, but not limited to, my statement, and the statements by COL [redacted] and COL (b)(6)-2 & (b)(7)(C)-2.

b(6)-2; b(7)(c)-2

21. If you need any documentation to support anything in my response which is not already in your possession, please contact my attorney, Major (b)(6)-2 & (b)(7)(C)-2 and he will assist with such.

JANIS L. KARPINSKI
BG, USAR

C-18

DEPARTMENT OF THE ARMY
HEADQUARTERS, 800TH MILITARY POLICE BRIGADE (IR)
CAMP ARIFJAN, KUWAIT APO AE 09366

AFRC-CNY-AI-CG

20 August 2003

MEMORANDUM FOR LTC (b)(6)-2 & (b)(7)(C)-2 400th Military Police Battalion

SUBJECT: REPRIMAND UP AR 600-37

1. This letter of reprimand is a result of the incident on 19 August 2003 when one of your soldiers from the 770th Military Police Company negligently discharged an M-16 round while exiting his vehicle in the vicinity of the clearing barrels at Checkpoint 1 on BIAP. The discharge caused damage to the vehicle's fuel tank and rendered the vehicle inoperable.

2. This incident demonstrates a failure in training on proper weapons clearing procedures and a lack of command emphasis by you on proper safety procedures to reduce the risk to your soldiers from accidental injury or death. A Battalion Commander sets the tone for the entire unit. It is your responsibility to ensure adherence to safety measures and standards. Soldier safety is my top priority. I hold you accountable for the safe environment of your soldiers.

3. This is an administrative reprimand imposed UP of AR 600-37, and not as punishment pursuant to Article 15, UCMJ.

4. I intend to file this reprimand in your local MPRJ. I will carefully consider any matters in rebuttal, extenuation or mitigation. You have one week from receipt of this memorandum to submit such matters. I will withhold final decision on imposing this memorandum until the time period passes.

JANIS L. KARPINSKI
Brigadier General, USA
Commanding

C-19

DEPARTMENT OF THE ARMY
800th MILITARY POLICE BRIGADE (I/R)
CAMP VICTORY, IRAQ
AE 09302

REPLY TO
ATTENTION OF

AFRC-CNY-AJ-CG 10 November 2003

MEMORANDUM FOR Lieutenant Colonel (b)(6)-2 & (b)(7)(C)-2

SUBJECT: REPRIMAND UP AR 600-37

1. On 8 November 2003 another six detainees escaped from the Baghdad Central Confinement Facility (BCCF). These escapes included a detainee accused of murdering a US soldier. This incident highlights the lapses in security existing at BCCF since the 320th MP Battalion assumed control of the insallation. Various deficiencies and lapses have been brought to the attention of your staff by the 800th MP Brigade Headquarters personnel and others. I have personally brought these matters to your direct attention. Remedial action has been wholly inadequate. I am forced to conclude this results from a lack of leadership on your part.

2. We are fortunate no soldier or other prisoner was killed or seriously injured as a result of these lapses. We cannot wait until after such a preventable tragedy to act. This is your last warning. Correct deficiencies in security at BCCF immediately corrected or youl will force implementation of more severe action.

3. This is an administrative reprimand imposed UP of AR 600-37, and not as punishment pursuant to Article 15, UCMJ.

4. I intend to file this reprimand in your Military Personnel Record Jacket (MPRJ). If you should decide to submit matters in rebuttal, extenuation or mitigation I will carefully consider them in making a final determination on imposition of this reprimand. You have one week from receipt of this memorandum to submit such matters, and the response, if any, should be by endorsement to this memorandum. I will withhold final decision on imposing or filing this memorandum until that time period has passed.

Janis L Karpinski
JANIS L. KARPINSKI
Brigadier General, USA
Commanding

C-20

DA IG 4168

DEPARTMENT OF THE ARMY
800th MILITARY POLICE BRIGADE (I/R)
CAMP VICTORY, IRAQ
AE 09302

REPLY TO
ATTENTION OF

AFRC-CNY-AJ-CG

10 November 2003

MEMORANDUM FOR Major (b)(6)-2 & (b)(7)(C)-2

SUBJECT: REPRIMAND UP AR 600-37

1. On 8 November 2003 another six detainees escaped from the Baghdad Central Confinement Facility (BCCF). These escapes included a detainee accused of murdering a US soldier. This incident highlights the lapses in security existing at BCCF since the 320th MP Battalion assumed control of the insallation. Various deficiencies and lapses were brought to your attention through an AR 15-6 investigation on a previous escape, and in numerous staff assistance visits by 800th MP Brigade Headquarters personnel. You failed to carry through with your duties as the Battalion Operations Officer to identify these issues and implement prompt corrective action.

2. We are fortunate no soldier or other prisoner was killed or seriously injured as a result of these lapses. We cannot wait until after such a preventable tragedy to act. This is your last warning. Correct deficiencies in security at BCCF immediately corrected or youl will force implementation of more severe action.

3. This is an administrative reprimand imposed UP of AR 600-37, and not as punishment pursuant to Article 15, UCMJ.

4. I intend to file this reprimand in your Military Personnel Record Jacket (MPRJ). If you should decide to submit matters in rebuttal, extenuation or mitigation I will carefully consider them in making a final determination on imposition of this reprimand. You have one week from receipt of this memorandum to submit such matters, and the response, if any, should be by endorsement to this memorandum. I will withhold final decision on imposing or filing this memorandum until that time period has passed.

Janis L. Karpinski
JANIS L. KARPINSKI
Brigadier General, USA
Commanding

C-21

4170

DA IG

**DEPARTMENT OF THE ARMY**
**HEADQUARTERS, 800TH MILITARY POLICE BRIGADE (IR)**
**CAMP ARIFJAN, KUWAIT APO AE 09366**

AFRC-CNY-AI-CG 20 August 2003

MEMORANDUM FOR CPT [redacted] 770th Military Police Company

SUBJECT: REPRIMAND UP AR 600-37

1. This letter of reprimand is a result of the incident on 19 August 2003 when one of your soldiers negligently discharged an M-16 round while exiting his vehicle in the vicinity of the clearing barrels at Checkpoint 1 on BIAP. The discharge caused damage to the vehicle's fuel tank and rendered the vehicle inoperable.

2. This incident demonstrates a failure in training on proper weapons clearing procedures and a lack of command emphasis by you on proper safety procedures to reduce the risk to your soldiers from accidental injury or death. A Company Commander sets the tone for the entire unit. It is your responsibility to ensure adherence to safety measures and standards. Soldier safety is my top priority. I hold you accountable for the safe environment of your soldiers.

3. This is an administrative reprimand imposed UP of AR 600-37, and not as punishment pursuant to Article 15, UCMJ.

4. I intend to file this reprimand in your local MPRJ. I will carefully consider any matters in rebuttal, extenuation or mitigation. You have one week from receipt of this memorandum to submit such matters. I will withhold final decision on imposing this memorandum until the time period passes.

Janis L. Karpinski

JANIS L. KARPINSKI
Brigadier General, USA
Commanding

C-22

4172

DA IG

**DEPARTMENT OF THE ARMY**
**HEADQUARTERS, 800TH MILITARY POLICE BRIGADE (IR)**
**CAMP ARIFJAN, KUWAIT APO AE 09366**

AFRC-CNY-AI-CG 20 August 2003

MEMORANDUM FOR CSM (b)(6)-2 & (b)(7)(C)-2 400th Military Police Battalion

SUBJECT: REPRIMAND UP AR 600-37

1. This letter of reprimand is a result of the incident on 19 August 2003 when one of your soldiers from the 770th Military Police Company negligently discharged an M-16 round while exiting his vehicle in the vicinity of the clearing barrels at Checkpoint 1 on BIAP. The discharge caused damage to the vehicle's fuel tank and rendered the vehicle inoperable.

2. This incident demonstrates a failure in training on proper weapons clearing procedures and a lack of command emphasis by you on proper safety procedures to reduce the risk to your soldiers from accidental injury or death. A Battalion Command Sergeant Major sets the tone for the entire unit. It is your responsibility to ensure adherence to safety measures and standards. Soldier safety is my top priority. I hold you accountable for the safe environment of your soldiers.

3. This is an administrative reprimand imposed UP of AR 600-37, and not as punishment pursuant to Article 15, UCMJ.

4. I intend to file this reprimand in your local MPRJ. I will carefully consider any matters in rebuttal, extenuation or mitigation. You have one week from receipt of this memorandum to submit such matters. I will withhold final decision on imposing this memorandum until the time period passes.

Janis L. Karpinski

JANIS L. KARPINSKI
Brigadier General, USA
Commanding

C-26

4174

DA IG

**DEPARTMENT OF THE ARMY**
**800th MILITARY POLICE BRIGADE (I/R)**
**CAMP VICTORY, IRAQ**
**AE 09302**

REPLY TO
ATTENTION OF
AFRC-CNY-AJ-CG

16 September 2003

MEMORANDUM FOR Command Sergeant Major [redacted]

SUBJECT: REPRIMAND UP AR 600-37

1. This reprimand is necessary due to your personal conduct and inappropriate behavior observed in the course of your visit with soldiers assigned to the 229th Military Police Company, Abu Gharib Prison compound, Baghdad, Iraq, 1 September 2003. Your conduct, initiated without restraint and/or appropriate motivation, casts serious doubt on your credibility, trustworthiness and maturity. Your position, as the Brigade Command Sergeant Major, requires respect, esteem, impartiality, and ethics. You are in violation of these standards of conduct.

2. You were observed, and reported, to be acting in a highly inappropriate manner with a junior enlisted soldier. A soldier reported you reached behind Specialist [redacted] to place your right hand on her right shoulder and then squeezed her shoulder as if massaging her, and then, while walking for approximately 50 yards, you repeated the action on her left shoulder. You were also observed guiding Specialist [redacted] to a seated position, taking a seat next to her and putting your arm around her. You did this in the presence of several other junior enlisted soldiers. The disparate treatment you afforded Specialist [redacted] was obvious and offensive to the other soldiers observing your behavior.

3. Your lack of judgment is disappointing and unacceptable, particularly considering your position and responsibilities as the Brigade Command Sergeant Major. You are apparently oblivious, or indifferent about how such actions are perceived. You gave no consideration to the effect such behavior has on morale in the 229th Military Police Company and, in fact, throughout the 800th Military Police Brigade. The allegation is credible largely due to the source, a soldier who had no preconceived ideas or prior knowledge of you prior to making his statement.

4. The conduct, unfortunately, is consistent with previous acts reported independently and by multiple credible sources. You were verbally counseled concerning similar conduct in July 2003. I clearly informed you during the counseling session, there would only be only one verbal warning. You acknowledged an awareness of the perception, and stated your future conduct would not give rise to any other allegations. This act forces me to question your ability to continue in your current position.

5. This is an administrative reprimand imposed UP of AR 600-37, and not intended as punishment pursuant to Article 15, UCMJ.

6. I currently intend to file this reprimand in your Official Military Personnel File (OMPF). Should you decide to submit matters in rebuttal, extenuation or mitigation I will carefully consider them in making a filing determination. You have one week from receipt of this memorandum to submit such matters, and the response, if submitted will be by endorsement to this memorandum. I will withhold final decision on imposing or filing this memorandum until that time period has passed.

JANIS L. KARPINSKI
Brigadier General, USA
Commanding

17 September 2003

MEMORANDUM FOR Commanding General

SUBJECT: REPRIMAND UP AR 600-37 (Sergeant Major (b)(6)-2 & (b)(7)(C)-2 [redacted]

(b)(6)-2 & (b)(7)(C)-2 [redacted]

1. I acknowledge receipt of the subject reprimand on 17 SEP 2003. I understand I have 7 days from receipt to submit matters in rebuttal, extenuation or mitigation before you make a final decision on imposition of the letter and filing in my local unit file and/or my Office Military Personnel File (OMPF).

2. I (will) (~~will not~~) submit matters in rebuttal, ~~or~~ extenuation and mitigation.

(b)(6)-2 & (b)(7)(C)-2 [redacted]

CSM, USA

4177

DA IG

23 Sept. 2003

BG J. Karpinski,

On 01 Sept. 2003 I conducted a morale and welfare visit at Baghdad Central Detention Facility. While over in the 229 MP Co. area, I was speaking with 1SG (b)(6)-2 & (b)(7)(C)-2 and he informed me one of his soldier's SPC (b)(6)-2 & (b)(7)(C)-2 had a problem and he had to relieve her of her weapon and her duties. He explained she was having a problem coping with every thing that had taken place in a short period of time and also with having to incarcerate the Iraqi people. He told me she had started crying and could not focus on her job. He told me they had scheduled medical help for her and also asked me if I would speak to her. I told him I would and he went to get her.

When she arrived I was talking with some other soldier's, so I excused myself and walked away with her so I could talk to her privately, since this was a sensitive issue. I may have put my hand on her shoulder, but it was definitely not to massage her. It was done to turn her around and point her in the direction I wanted her to go. I am truly sorry if another soldier saw this action and misinterpeted it for anything other than what it was.

I came to this theatre of operations with the Brigade and I would like the opportunity to return home with them. Thank you for any consideration in this matter.

(b)(6)-2 & (b)(7)(C)-2

[redacted]

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

DEPARTMENT OF THE ARMY
HEADQUARTERS, 800TH MILITARY POLICE BRIGADE
CAMP VICTORY, IRAQ APO AE 093202

REPLY TO
ATTENTION OF

AFRC-CNY-AI-CG

07 October 2003

MEMORANDUM FOR CSM(b)(6)-2 & (b)(7)(C)-2, 800th Military Police Brigade, Camp Victory, Iraq 09302

SUBJECT: Filing Determination, Memorandum of Reprimand Imposed Pursuant to AR 600-37

I have carefully considered your 23 September 2003 written response to my memorandum of reprimand dated 16 September 2003. I am imposing the reprimand, and directing it and the response be filed in your Official Military Personnel File (OMPF).

Encls:
MOR (16 Sep 03)
Response (23 Sep 03)

JANIS L. KARPINSKI
Brigadier General
Commanding

CF:
AR-PERSCOM

C-28

DA IG

4180

NOT RESPONSIVE

DA IG

C-29

DA IG

4182

**DEPARTMENT OF THE ARMY**
**HEADQUARTERS, 800TH MILITARY POLICE BRIGADE (IR)**
**CAMP ARIFJAN, KUWAIT APO AE 09366**

AFRC-CNY-AI-CG 20 August 2003

MEMORANDUM FOR 1SG (b)(6)-2 & (b)(7)(C)-2 770th Military Police Company

SUBJECT: REPRIMAND UP AR 600-37

1. This letter of reprimand is a result of the incident on 19 August 2003 when one of your soldiers negligently discharged an M-16 round while exiting his vehicle in the vicinity of the clearing barrels at Checkpoint 1 on BIAP. The discharge caused damage to the vehicle's fuel tank and rendered the vehicle inoperable.

2. This incident demonstrates a failure in training on proper weapons clearing procedures and a lack of command emphasis by you on proper safety procedures to reduce the risk to your soldiers from accidental injury or death. A First Sergeant sets the tone for the entire unit. It is your responsibility to ensure adherence to safety measures and standards. Soldier safety is my top priority. I hold you accountable for the safe environment of your soldiers.

3. This is an administrative reprimand imposed UP of AR 600-37, and not as punishment pursuant to Article 15, UCMJ.

4. I intend to file this reprimand in your local MPRJ. I will carefully consider any matters in rebuttal, extenuation or mitigation. You have one week from receipt of this memorandum to submit such matters. I will withhold final decision on imposing this memorandum until the time period passes.

JANIS L. KARPINSKI
Brigadier General, USA
Commanding

C-30

4184

DA IG

# Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

Preamble

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of establishing a Convention for the Protection of Civilian Persons in Time of War, have agreed as follows:

Part I. General Provisions

Article 1. The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Art. 2. In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

~~The Convention shall also apply to all cases of partial or total occupation of the territory of a~~ High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

## Chapter VII. Administration and Discipline

Art. 99. Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application.

The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee.

Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment, in a language which they understand.

Every order and command addressed to internees individually must, likewise, be given in a language which they understand.

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C-31

DA IG 4187

# Department of the Army Regulation 600-100

**Personnel--General**

# Army Leadership

**17 September 1993**

**Effective date: 17 October 1993**

**UNCLASSIFIED**

PIN: 059983000

Click here to view entire publication.

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By Order of the Secretary of the Army:

GORDON R. SULLIVAN
*General, United States Army*
*Chief of Staff*

Official:

Milton H. Hamilton

MILTON H. HAMILTON
*Administrative Assistant to the*
*Secretary of the Army*

**History:** This UPDATE printing publishes a revision of this publication. Because the publication has been extensively revised, the changed portions have not been highlighted.

**Summary:** This regulation establishes Army leadership policy that is the basis for leadership and leader development doctrine and training. It sets forth responsibilities for all aspects of leadership and leader development policy, doctrine, training, and research.

**Applicability:** This regulation applies to the Active Army, the Army National Guard, the U.S. Army Reserve, and Department of the Army civilians.

**Proponent and Exception Authority:** The proponent of this regulation is the Deputy Chief of Staff for Personnel (DCSPER). The DCSPER has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The DCSPER may delegate this authority, in writing, to a division chief within the proponent agency in the grade of colonel or the civilian equivalent.

**Army Management Control Process:** This regulation is not subject to the requirements of AR 11-2 . It does not contain internal control provisions.

**Supplementation:** Supplementation of this regulation is prohibited without prior approval from HQDA (DAPE-HR-L), WASH DC 20310-0300.

**Interim Changes:** Interim changes to this regulation are not official unless they are authenticated by The Administrative Assistant to the Secretary of the Army. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

**Suggested Improvements:** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms)

## Chapter 1
## General

### 1–1. Purpose
This regulation—

*a.* Establishes Total Army policy for leadership by assigning and synchronizing responsibilities for management of leadership and leader development policy.

*b.* Provides direction and guidance for research, doctrine development, leadership assessment, training and evaluation in all areas pertaining to Army leadership and leader development.

### 1–2. References
Required and related publications and prescribed and referenced forms are listed in the appendix A.

### 1–3. Explanation of abbreviations and terms
Abbreviations and special terms used in this regulation are explained in the glossary.

### 1–4. Definitions
*a.* Leadership is the process of influencing others to accomplish the mission by providing purpose, direction, and motivation. Effective leadership transforms human potential into effective performance.

*b.* Management is the process of acquiring, assigning priorities to, allocating, and using resources (people, money, materiel, facilities, information, time, etc.) in an effective and efficient manner.

*c.* Leader development is a process. It is the preparation of military and civilian leaders, through a progressive and sequential system of institutional training, operational assignments, and self-development, to assume leader positions and exploit the full potential of present and future doctrine.

*d.* Command is the legal authority vested in an individual appointed to a position in the chain of command. Command carries with it special powers of responsibility and accountability which are associated with the position.

### 1–5. Policy
*a.* In an era when technological advantages have narrowed, and access to information of all kinds is relatively limitless, the most effective and efficient way for the Army to maintain its competitive edge is by enhancing the effectiveness of people and organizations. Good leadership can facilitate this goal.

*b.* Whether preparing for a war, fighting a war, or supporting a war, leadership skills, knowledge and attitudes must be consistent with the warfighting doctrine of the U.S. Army.

### 1–6. Framework
Total Army leadership policy recognizes that—

*a.* Each organizational level of the Army requires a different mix of leadership skills, knowledge, attitudes (SKA) and experience. Leadership at the lower levels is direct, face-to-face, and relatively short term in outlook. As leaders ascend the organizational ladder, leadership tasks become more complex and sophisticated. Senior leaders have responsibility for large organizations or systems. They exercise leadership indirectly through staffs and subordinate leaders, and they look deeper into the future than at the lower levels. As leaders move into the most complex and highest levels of the Army, or become involved in the strategic arena, the ability to conceptualize and integrate becomes increasingly important. Leaders at this level focus on establishing the fundamental conditions for operations to deter wars, fight wars, or conduct operations other than war. They also create organizational structures needed to deal with future requirements. Leaders at this level have the longest outlook in time.

*b.* Leadership skills needed at successively higher levels in the Army build on those learned at previous levels. As military and civilian leaders progress within the Army, they serve in more complex and interdependent organizations, have increased personal responsibility and authority, and have significantly different skills, knowledge and attitude(SKA) than their subordinates. These SKA requirements build on those learned at previous levels. Before advancing from one level to the next, leaders must acquire the leadership skills, knowledge and attitudes needed at the higher level.

### 1–7. Levels of leadership
Total Army leadership policy recognizes three interrelated levels of leadership requirements: direct, senior and strategic. These levels vary in scope and character, and require differing mixes of leadership skills.

*a.* The direct level is the front-line or first level of leadership. This level includes leaders from the squad through battalion levels of tactical units, and from branch through division level in Table of Distribution and Allowances(TDA) organizations. Leadership at this level consists of the skills, knowledge and attitudes which relate to face-to-face, interpersonal leadership that influences human behavior and values. Direct leaders build cohesive teams and empower subordinates. Skills required for effective leadership at this level include technical and tactical competence on individual soldier and leader tasks, problem solving, interpersonal skills, performance counseling, team building, and developing and executing plans that implement policies and accomplish missions. Direct leaders focus on short-range planning and mission accomplishment ranging from three months to one year, or more.

*b.* Senior level leadership exists in more complex organizations. This level includes military and civilian leaders at the brigade through corps levels in tactical units, and directorate through installation level in TDA organizations. Senior leaders tailor resources to organizations and programs and set command climate. Skills required for effective leadership at this level include technical and tactical competence on synchronizing systems and organizations, sophisticated problem solving, interpersonal skills (emphasizing listening, reading, and influencing others indirectly through writing and speaking), shaping organizational structure and directing operations of complex systems, tailoring resources to organizations or programs, and establishing policies that foster a healthy command climate. Senior leaders focus on mid-range planning and mission accomplishment ranging from one to five years, or more.

*c.* The strategic level of leadership exists at the highest levels throughout the Army. This level includes military and civilian leaders at Field Army through national levels. Strategic leaders establish structure, allocate resources and articulate strategic vision.Skills required for effective leadership at this level include technical competence on force structure and integration, unified, joint, combined, and interagency operations, resource allocation, and management of complex systems; conceptual competence in creating policy and vision; and interpersonal skills emphasizing consensus building and influencing peers and other policy makers -- both internal and external to the organization.Strategic leaders focus on the long-range vision for their organization ranging from 5 to 20 years, or more.

### 1–8. Values
*a.* The professional Army ethic is the set of values that guide the way we live our lives and perform our duties. The essential values of our professional ethic are:

(1) *Loyalty.* Loyalty to the nation, to the Army and to the unit. This means supporting the military and civilian chain of command, as well as devoting oneself to the welfare of others.

(2) *Duty.* Duty is the legal and moral obligation to do what should be done without being told.

(3) *Selfless service.* This means putting the welfare of the nation and accomplishment of the mission ahead of personal desires.

(4) *Integrity.* This is the thread woven through the fabric of the professional Army ethic. Integrity means honesty, uprightness, the avoidance of deception and steadfast adherence to standards of behavior.

*b.* Four individual values strengthen and support the ethical code. They are commitment, competence, candor and courage.*Commitment* means dedication to carry out all unit missions and to serve the values of the nation, the Army, and the organization.*Competence*

## 1-8. Values

*a.* The professional Army ethic is the set of values that guide the way we live our lives and perform our duties. The essential values of our professional ethic are:

(1) *Loyalty.* Loyalty to the nation, to the Army and to the unit. This means supporting the military and civilian chain of command, as well as devoting oneself to the welfare of others.

(2) *Duty.* Duty is the legal and moral obligation to do what should be done without being told.

(3) *Selfless service.* This means putting the welfare of the nation and accomplishment of the mission ahead of personal desires.

(4) *Integrity.* This is the thread woven through the fabric of the professional Army ethic. Integrity means honesty, uprightness, the avoidance of deception and steadfast adherence to standards of behavior.

*b.* Four individual values strengthen and support the ethical code. They are commitment, competence, candor and courage. *Commitment* means dedication to carry out all unit missions and to serve the values of the nation, the Army, and the organization. *Competence* is proficiency in required professional knowledge, skills, and attitudes. *Candor* is being frank, open, honest, and sincere with soldiers, seniors, and peers. *Courage* comes in two forms. Physical courage is overcoming personal fears of bodily harm and doing your duty. Moral courage is overcoming fears of other than bodily harm while doing what ought to be done

# Chapter 2 Responsibilities

## 2-1. General

*a.* All leaders are responsible for:

(1) Accomplishing the unit's mission.

(2) Ensuring subordinates welfare to include physical, moral, personal, and professional well-being.

(3) Effectively communicating vision, purpose and direction.

(4) Setting and exemplifying the highest professional and ethical standards.

(5) Building cohesive teams.

(6) Empowering subordinates.

(7) Developing their own and subordinate leaders' skills, knowledge, and attitudes.

(8) Building discipline, while stimulating confidence, enthusiasm and trust.

(9) Anticipating, managing, and exploiting change.

(10) Anticipating and solving problems.

(11) Acting decisively under pressure.

(12) Evaluating and accepting risk to exploit opportunity.

(13) Treating subordinates with dignity, respect, fairness and consistency.

*b.* All Army leaders have a responsibility for personal acceptance of the Army ethic and for instilling in subordinates those values that comprise it.

(1) General officers and senior civilians at the strategic levels of the Army are responsible for establishing fundamental tenets of the Army ethic; creating and communicating the Army vision; creating policies, structure and programs; and strengthening the Army's values through their own behaviors. They affect all members junior to them by formulating policies that support and sustain those values, and by ensuring that procedures developed at lower levels further support Army policy and values. Strategic level leaders are responsible for the total Army culture.

(2) Senior level leaders promote Army values by establishing and maintaining the command climate of their organizations through sound, ethical organizational policies and practices.

## 1-8. Values

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Command climate is the sum of the philosophy, values, procedures, and behaviors which are modeled, expected, and rewarded by the commander. Senior leaders must consider individual perceptions and their effects in establishing and maintaining a healthy command climate. At the core of the responsibility of senior level leaders is the need to develop, motivate, and coach subordinate leaders.

(3) Leaders at the direct level affect values and behavior by establishing day-to-day procedures, practices and working norms, by their personal example, and by building discipline, cohesion, motivation, consistency and fair play. By carrying out their responsibilities as outlined in paragraph 2-1 , leaders strengthen individual values and commitment to the Army and bolster organizational productivity and growth. Leaders operating at this level have the most face-to-face contact with subordinates; therefore, they directly influence behavior of individuals and help to shape their values. The values leaders personally practice have a major impact in determining unit and organizational value systems.

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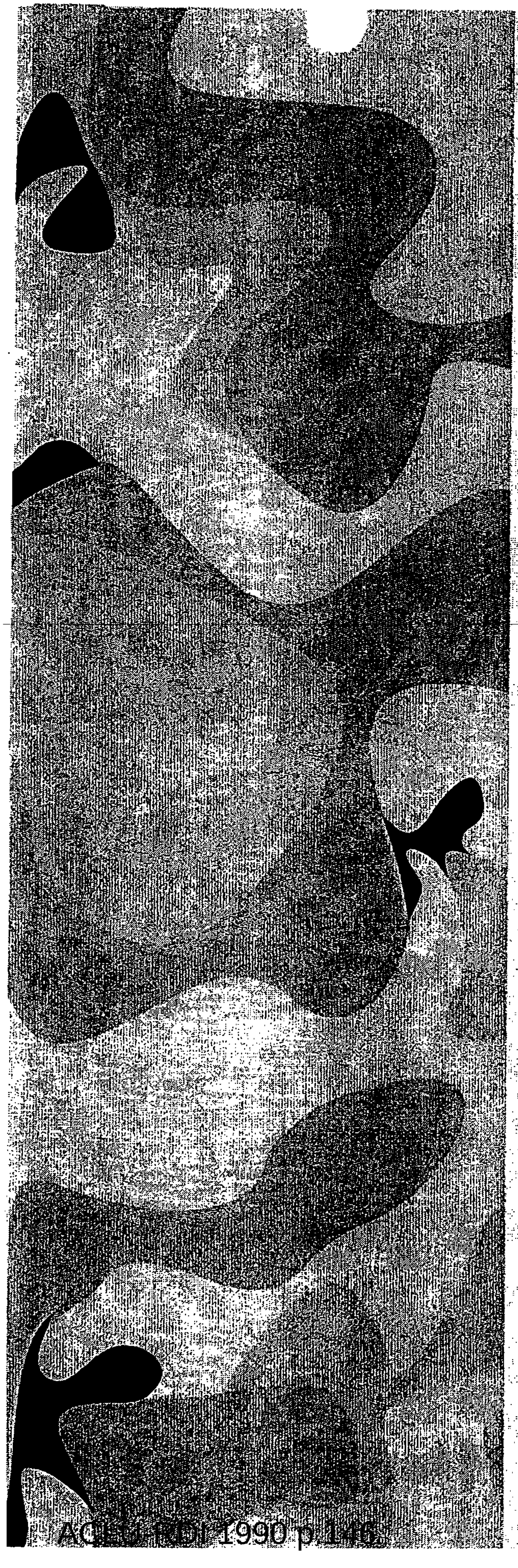

# FM 7-0
(FM 25-100)

# TRAINING THE FORCE

OCTOBER 2002

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## METL DEVELOPMENT FOR DIRECTED MISSIONS

3-20. When an organization is directed to conduct a mission other than its assigned wartime operational mission (such as a stability operation or support operation), the training management cycle still applies. Directed missions can span the full spectrum of operations. For MTOE organizations, directed missions could range from major combat operations to providing humanitarian assistance or other types of stability operations and support operations. For TDA organizations, directed missions can range from mobilization to installation force protection operations.

3-21. Using their wartime METL as the foundation, commanders who are directed to change their mission conduct a mission analysis, identify METL tasks, and assess training proficiency for the directed mission. The mission analysis of the newly assigned mission could change the unit's METL, training focus, and the strategy to achieve proficiency for METL tasks. Figure 3-6 shows an example of tasks supporting a directed mission involving a stability operation.

| *Collective Training* | |
|---|---|
| • Convoy Operations<br>• Route Security<br>• Rail/Air Movement Training | • Area Security<br>• Patrolling Operations<br>• Establish/Operate Checkpoints |
| ***Leader Training*** | |
| • Fire Control Exercise (FCX)<br>• Casualty Evacuation (CAS EVAC)<br>• Deployment Exercise<br>• Risk Management | • Rules Of Engagement (ROE) Proficiency<br>• Petroleum, Oils and Lubricants/Military (POL/MIL) Seminar<br>• Media Interaction |
| ***Individual Training*** | |
| • Mine Awareness<br>• ROE Proficiency<br>• Media Interaction | • Medical Awareness<br>• Country Orientation<br>• Force Protection |

**Figure 3-6. Examples of METL Tasks to Support a Directed Mission to Conduct Stability Operation**

3-22. In cases where mission tasks involve emerging doctrine or nonstandard tasks, commanders establish tasks, conditions, and standards using mission orders and guidance, lessons learned from similar operations, and their professional judgment. Senior commanders approve the established standards for these tasks as part of the normal METL approval process. If time permits prior to deployment, units should execute a mission rehearsal exercise (MRE) with all participating units.

3-23. Upon redeployment from a directed mission, commanders conduct a mission analysis consistent with the training management cycle to reestablish proficiency in the unit's wartime operational METL. Senior commanders must take into account the additional time this reintegration process may take. Battle focus guides the planning, preparation, execution, and assessment of each organization's training program to ensure its members train as they will fight.

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for crimes, they will be released. Notwithstanding the continuing armed conflict in Iraq, nearly 5% of HVDs have already been released on parole.

Concerning segregations, the issue of cells without daylight is a disciplinary prohibition in GCIII/IV. The HVDs are not held in such conditions as a disciplinary measure, but as a temporary security precaution during their ongoing interrogation and as a result of available appropriate structures. As your paper notes, internees have access to electric lighting, an hour outside their cells each day, and showers.

The alleged ill treatment of Ibrahim Khalil Ibrahim Hussein Al-Aani upon capture will be investigated and appropriate action taken if warranted. U.S. forces make the legal status, rights and judicial guarantees of all detainees a continuing priority in detention operations.

Regarding the treatment of EPWs under GCIII, the matter will be considered and appropriate measures will be implemented if necessary. With respect to the security internees, who are "definitely suspected of or engaged in activities hostile to the security of the State", we agree they are protected persons under GCIV. However, depending on the nature of the security risk presented by these internees, their protections are subject to the derogation pursuant to GCIV/5.

**Baghdad Central Detention Facility (Abu Ghurayb)**

It is regretted there were difficulties with access to detainees on 21 October 03. Improved procedures should ensure such problems are avoided in the future.

The security environment around Abu Ghurayb is challenging, like many areas in Iraq. Steps are continually being taken to improve security by engaging those launching attacks on the facility. Shelters against mortar or rocket attack are in shortage throughout the country for Coalition forces as well, but may be provided to the facility in due course. There is no threat of air attack.

Concerning the interrogation of security internees, the questioning of a small number of internees selected for their significant intelligence value in Unit 1A is a military necessity. Our forces follow clear procedures governing interrogation to ensure approaches do not amount to inhumane treatment. As internees in Unit 1A undergo interrogation, they may be segregated for security purposes for the period of interrogation. Their right to communication may also be infringed for "absolute security" reasons as contemplated in GCIV/5.

With regard to the criminal detainees in the common law sections, recreational activities should improve over time, as should family visits for this category of detainee. Despite obvious military security issues with respect to communication by security internees, means to allow family visits and other types of communication for these internees are being reviewed in order to balance humanitarian and security considerations. The rioting and shooting of a U.S. guard last month by a security internee using a pistol smuggled into the facility is a timely example of the need to ensure proper security measures are taken throughout the facility.

Improvement can be made for the provision of clothing, water and personal hygiene items. Efforts are ongoing to make continued improvements in these areas. As with the HVD facility, improvements are continually being made with regard to procedures relating to judicial guarantees.

## Conclusion

The two Working Papers provided should offer great assistance in understanding how our detention operations are conducted in accordance with the Geneva Conventions. However, security conditions during this armed conflict do present challenges delaying certain improvements in the detention conditions of all classes of detainees. As security in Iraq improves, more resources can be devoted to further improving the conditions in detention facilities. Our aim is to continue providing for the security and humane treatment of all detainees. However, as you will have noted, while the armed conflict continues, and where "absolute military security so requires" security internees will not obtain full GC protection as recognized in GCIV/5, although such protection will be afforded as soon as the security situation in Iraq allows it.

In the meantime, in the context of ongoing operational and strategic interrogation of certain security internees, locally imposed conditions and resource constraints, all internees are guaranteed humane treatment as a minimum standard. We will seek to exceed this standard where possible and appropriate. Your input is important, and we look forward to a positive ongoing working relationship with ICRC delegates in the future.

Sincerely,

Janis L. Karpinski

JANIS L. KARPINSKI
Brigadier General
Commanding